

COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

- - -

STATE OF OHIO, :

Plaintiff. :

vs. :Case Number B1003262

RUBEN JORDAN, :Appeal Number C1100833

Defendant. :Volume II of X

- - -

TRANSCRIPT OF PROCEEDINGS

- - -

APPEARANCES:

Seth S. Tieger, Esq.

Megan E. Shanahan, Esq.

On behalf of the State of Ohio.

William P. Whalen, Jr., Esq.

Amy R. Williams, Esq.

On behalf of the Defendant.

BE IT REMEMBERED that upon the Jury

Trial of this cause, on January 12, 2011, before

the Honorable NADINE L. ALLEN, a judge of the

said court, the following proceedings were had,

to wit:

1 MORNING SESSION, January 12, 2011

2 THE COURT: Court is in session.

3 (The jury entering the courtroom at
4 10:54 a.m.)

5 THE COURT: Is everybody in the
6 room now? All right. You may all be
7 seated. Before we get started, we do
8 have -- you may all be seated. I just
9 want to make an announcement. We do have
10 witnesses and some spectators here today,
11 and I just want to tell everybody that
12 cell phones are not allowed in the
13 courtroom. Texting, picture taking, put
14 away any cell phones, any texting, any
15 picture taking immediately. That applies
16 to everybody in the courtroom.

17 I think we are ready to continue
18 with our prospective jury, and three
19 persons are now -- two were excused for
20 cause, and I know the woman called this
21 morning, Connie (sic) Krieg. She has
22 been excused for cause by the -- well,
23 the Court excused her based upon her
24 statement that she wasn't going to come
25 in today. I assume there will not be an

1 objection. She has a bad health issue,
2 also.

3 MS. SHANAHAN: Yes, Your Honor.

4 THE COURT: So we are ready to
5 continue?

6 MR. TIEGER: Judge, I think Mr.
7 Burck --

8 THE COURT: Mr. Tieger, for the
9 record, I have a friend named Tieg.

10 MR. TIEGER: That's okay.

11 THE COURT: And it slipped in my
12 head.

13 MR. TIEGER: Okay. Mr. Burck and
14 Mr. Obst, Judge, I think there are two
15 open seats. And my understanding is that
16 Mr. Obst would be in Seat Number 1 and
17 Mr. Burck would be in Seat Number 9.

18 THE COURT: That is correct. Would
19 Mr. Burck have a seat? Mr. Burck, where
20 are you? Okay. You can step forward and
21 have a seat. The first person excused
22 was Leon Rozier. And you will be in Seat
23 Number 1, on the other side of that
24 pillar.

25 MR. TIEGER: Judge, I think Ms.

1 Spencer went into --

2 THE COURT: We already put in Ms.
3 Spencer.

4 MS. SHANAHAN: Right. And she had
5 went into Mr. Rozier's hot spot, and Mr.
6 Burck then would go into Mr. Smith's
7 spot, and then Mr. Obst would go into
8 Ms. Spencer's spot. Is that correct,
9 Mr. Whalen?

10 MR. TIEGER: That's the way I had
11 written it down.

12 THE COURT: Mr. Burck, sit in
13 Number 13 then. Number 13 is negotiated.

14 MR. TIEGER: I think Mr. Burck
15 would be in Seat Number 9.

16 THE COURT: There it is. I see
17 that now. Right. Thank you for that
18 correction.

19 MR. TIEGER: Sure, Judge.

20 THE COURT: And Mr. Burck is in
21 Number 9. And then the next person would
22 be Gary Obst, he would be in Number 1; is
23 that correct?

24 MR. TIEGER: Yes.

25 THE COURT: Mr. Obst would be in

1 Number 1? And then Ms. Spencer -- Carol
2 Krieg was next, but she has been excused
3 also.

4 So Sherri Kemper, Number 17, would
5 you stand up, please. You're going to be
6 seated.

7 MR. TIEGER: Judge, I think we are
8 good now because there is an open seat
9 between Ms. Heintz and Ms. Bessey, but I
10 think they have -- they are really 10, 11
11 and 12. They should be seated -- maybe
12 scoot over one, I think would that be
13 right?

14 MS. SHANAHAN: Yes.

15 THE COURT: Yes, scoot over one, if
16 you don't mind, so we can -- just for our
17 sake so we can keep our records clear.
18 So we have the 12.

19 Ms. Kemper, you can just have a
20 seat because -- you may be seated because
21 we are not to the point of even getting
22 to alternates yet.

23 So at this time, the attorneys have
24 the opportunity to question the three who
25 have been seated.

1 MR. TIEGER: Thank you, Judge.

2 THE COURT: The three who have been
3 seated.

4 MR. TIEGER: Yes, Your Honor.

5 THE COURT: Who have been seated.

6 MR. TIEGER: Hello again,
7 everybody. Hopefully, you all were in
8 agreement taking off yesterday on the
9 snow day. It was maybe not as bad as
10 expected, but I know it snowed and snowed
11 and never stopped, so, hopefully, that
12 was a good day for you to get your
13 shoveling and all that done. It would
14 have been a mess coming downtown.

15 Basically what today is going to
16 be, we're pretty much through jury
17 selection. As the Court told you, each
18 side gets a chance -- a chance to excuse
19 four people. We are getting close to
20 that point, when we finally get a jury.
21 And there is going to be several
22 alternates that are chosen.

23 The plan is going to be to go on a
24 view of the scene this afternoon around
25 two, and then my understanding is that

1 once that is complete, we would be done
2 for the day, and we would give opening
3 statements probably around noon or one
4 tomorrow.

5 So that's kind of the basic
6 schedule. We'll try to get a jury today
7 and go on a bus to the view and then
8 start with the actual testimony tomorrow
9 afternoon.

10 Mr. Obst, this kind of is going to
11 be a replay of Monday where myself, Mr.
12 Whalen, maybe Ms. Williams, will be
13 asking you some questions, and we are
14 just looking -- it's a little bit
15 different in that you folks, Mr. Burck
16 and Mr. Obst, were kind of in the back,
17 and we were primarily talking to the
18 people up here. And a lot of it is, did
19 you hear what we said? Is there anything
20 you would like to talk about? And we are
21 going to try not to repeat our questions
22 with you that we did with everybody else.
23 But, Mr. Obst, it looks like you're
24 retired from GE. What did you do for GE?

25 PROSPECTIVE JUROR OBST: Director

1 of International Corporation.

2 MR. TIEGER: Okay. Did that
3 involve a lot of travel?

4 PROSPECTIVE JUROR OBST: Yes.

5 MR. TIEGER: All over the world?

6 PROSPECTIVE JUROR OBST: Primarily

7 --

8 MR. TIEGER: Okay.

9 PROSPECTIVE JUROR OBST: --
10 International.

11 MR. TIEGER: How long have you been
12 retired?

13 MS. SHANAHAN: She's having a hard
14 time hearing you.

15 PROSPECTIVE JUROR OBST: A year and
16 nine months.

17 MR. TIEGER: Did you start at GE
18 and work your way up to the level that
19 you were at?

20 PROSPECTIVE JUROR OBST: Yes.

21 MR. TIEGER: What type of work
22 would you have done when you talk about
23 the traveling and the supervisory
24 position that you have?

25 PROSPECTIVE JUROR OBST: Primarily

1 negotiations, administering the
2 international joint ventures.

3 MR. TIEGER: Did you -- were you a
4 supervisor over people that worked for
5 you at all?

6 PROSPECTIVE JUROR OBST: Not in the
7 latest position, no.

8 MR. TIEGER: How about before that?

9 PROSPECTIVE JUROR OBST: Previously
10 , I was manager of international sources.

11 MR. TIEGER: And what would that
12 involve in terms of supervisory
13 capacities?

14 PROSPECTIVE JUROR OBST: Several
15 buyers and managers that work for me.

16 MR. TIEGER: Could you hire or
17 fire, that type of thing, or would it go
18 through a different chain of command?

19 PROSPECTIVE JUROR OBST: You would
20 make recommendations, those generally go
21 to human resources and I would not have
22 the authority to fire somebody at GE.

23 MR. TIEGER: And probably like the
24 government or something like that if
25 there is a lot of different levels?

1 PROSPECTIVE JUROR OBST: We'd do
2 the appraisal, help people through the
3 process.

4 MR. TIEGER: Okay. What do you do
5 since you have been retired?

6 PROSPECTIVE JUROR OBST: Primarily
7 volunteer work and keeping active in
8 sports and golf, tennis, biking,
9 volunteer with various tutoring, Great
10 Oaks, working with the church, lecturing
11 at the church. GE Cell Phone Society,
12 volunteer organization, rebuilding
13 computers, the computers with Cincinnati
14 Computer Cooperative.

15 MR. TIEGER: Okay. So that sounds
16 like definitely a lot of things that
17 you're involved in since you have left,
18 and I'm sure you're keeping yourself
19 busy. Anything that you would like to
20 tell us about that you heard Mr. Whalen
21 or myself talk about Monday that you
22 would like to comment at all?

23 PROSPECTIVE JUROR OBST: No.

24 MR. TIEGER: And, again, for you,
25 Mr. Burck, and really for everybody else,

1 I hate to repeat all the questions
2 that -- and I promise I won't do it, but
3 anything that you think of that we talked
4 about Kareem Gilbert, the killer of Mr.
5 Austin testifying, the drug dealer, all
6 those type of issues, you're okay with
7 all those issues, Mr. Obst?

8 PROSPECTIVE JUROR OBST: Yes.

9 MR. TIEGER: Okay. Mr. Burck, how
10 do you feel about all that?

11 PROSPECTIVE JUROR BURCK: I'm fine
12 with it.

13 MR. TIEGER: Okay. You judge their
14 credibility based on what you see,
15 observe and the different tests or rules
16 that you have been figuring out somebody
17 is telling the truth?

18 PROSPECTIVE JUROR BURCK: Yes, sir.
19 Yes, sir.

20 MR. TIEGER: Mr. Burck, you're
21 with Kroger?

22 PROSPECTIVE JUROR BURCK: Yes.

23 MR. TIEGER: What do you do for
24 Kroger?

25 PROSPECTIVE JUROR BURCK: At the

1 moment I manage the beer and wine
2 department in the store.

3 MR. TIEGER: Okay. Do you move
4 around between stores?

5 PROSPECTIVE JUROR BURCK: Yeah.
6 I'm at one particular location right now.

7 MR. TIEGER: How long have you been
8 at that location?

9 PROSPECTIVE JUROR BURCK: Six years
10 in March.

11 MR. TIEGER: Okay. And it looks
12 like that you or your family has been the
13 victim of a burglary.

14 PROSPECTIVE JUROR BURCK: Yes.

15 MR. TIEGER: Can you tell me a
16 little bit about that?

17 PROSPECTIVE JUROR BURCK: My wife
18 and I came home one night. We are not
19 sure, we thought we might have -- as we
20 opened the back garage door, he might
21 have gone out the front door because the
22 garage door was open. He broke the back
23 window on the back door and just, you
24 know, essentially very minor things.

25 MR. TIEGER: Did the police

1 investigate?

2 PROSPECTIVE JUROR BURCK: Yes.
3 North College Hill Police Department.

4 MR. TIEGER: And did they come up
5 with any suspects?

6 PROSPECTIVE JUROR BURCK: There was
7 kind of a string of burglaries going on
8 around at the time throughout the City
9 and we were thinking it was just that
10 individual. We believe he was
11 apprehended. You know, we are just
12 speculating that.

13 MR. TIEGER: Are you satisfied with
14 the job they did?

15 PROSPECTIVE JUROR BURCK:
16 Absolutely. Absolutely.

17 MR. TIEGER: And you don't live in
18 that area of town anymore?

19 PROSPECTIVE JUROR BURCK: No. No,
20 sir.

21 MR. TIEGER: Thank you, Mr. Burck,
22 Mr. Obst. Pass for cause, Judge.

23 THE COURT: Pass. Did you say you
24 pass for cause?

25 MR. TIEGER: Yes, Your Honor.

1 THE COURT: All right. Mr. Whalen,
2 Ms. Williams, you're going to do that
3 part?

4 MS. WILLIAMS: Yes.

5 THE COURT: Okay. You may proceed.

6 MS. WILLIAMS: Good morning,
7 everybody. Again, I'm not going to
8 repeat all the questions from yesterday.
9 I do just want to ask Mr. Obst and
10 Mr. Burck, I just want to make sure that
11 because Mr. Jordan does sit before you
12 today charged with this crime, that that
13 alone does not hold him guilty in your
14 mind, that you can accept that there is a
15 presumption of innocence here? And,
16 again, listen to all the facts and hold
17 the State to their burden to say that
18 they have to prove beyond a reasonable
19 doubt that just because he's charged, he
20 is not necessarily guilty. Can both of
21 you hold to that presumption?

22 PROSPECTIVE JUROR BURCK: Yes, yes.

23 PROSPECTIVE JUROR OBST: Yes.

24 MS. WILLIAMS: I notice, Mr. Obst,
25 that you said, as for police officers,

1 you said mostly good. Is there a reason
2 that you say mostly, or you had any bad
3 experiences with police officers?

4 PROSPECTIVE JUROR OBST: No.

5 MS. WILLIAMS: Okay. I see you're
6 on the NKU Advisory Board. I notice you
7 had mentioned that. What is the Advisory
8 Board at NKU?

9 PROSPECTIVE JUROR OBST:
10 International Business School there and
11 adviser position, help run selection of
12 the Dean, other type of roles and helping
13 curriculum, helping placement and those
14 type of activities.

15 MS. WILLIAMS: So that's pretty
16 involved?

17 PROSPECTIVE JUROR OBST: It's an
18 advisory job.

19 MS. WILLIAMS: And, Mr. Burck, does
20 anything about you having been
21 burglarized, does that sway you one way?

22 PROSPECTIVE JUROR BURCK: No.

23 THE COURT: Is there anyone -- one
24 second. Did somebody come into the room
25 with a cell phone in their possession?

1 Okay. I saw some other witnesses, I'm
2 going to repeat that, put all cell phones
3 away. There can be no texting, picture
4 taking of any kind. Have nothing in the
5 hand, that is an electronic device. All
6 right. You may continue.

7 MS. WILLIAMS: Okay. Just one more
8 question, and I'll leave you alone. Did
9 either of you see news stories or
10 anything related to this case? I know we
11 discussed that a bit yesterday, so...

12 PROSPECTIVE JUROR BURCK: Not that
13 I know of.

14 PROSPECTIVE JUROR OBST: I don't
15 follow the case.

16 THE COURT: Remember, keep your
17 voices up, stage voice, please. I'm
18 talking louder than usual. Okay.

19 MS. WILLIAMS: No further
20 questions.

21 THE COURT: You pass for cause?
22 All right. At this time, since you both
23 pass for cause, as you know each side
24 does have the right to exercise
25 peremptory challenges, and I explained

1 what that means. And this is now their
2 opportunity to do that.

3 The State will proceed first, and
4 we will seat -- that person will be
5 examined and we will replace that person
6 who will then be examined for cause.

7 MR. TIEGER: Judge, can we approach
8 just briefly?

9 THE COURT: Yes.

10 (The following transpired at
11 sidebar:)

12 MR. TIEGER: Judge, it would be
13 Juror Number 4, Ms. Williams.

14 THE COURT: Okay. Kalisha
15 Williams.

16 MR. TIEGER: Yeah.

17 THE COURT: Okay. And so we are
18 going to be replacing her with?

19 MR. TIEGER: Whoever.

20 THE COURT: Sherri Kemper.

21 MR. TIEGER: Okay.

22 (Sidebar concluded.)

23 THE COURT: This Court would like
24 to thank and excuse Juror Number 4,
25 Kalisha Williams. And you are to be

1 released, go back to the jury room.

2 Thank you very much for your answers and
3 your service that you have given us this
4 morning, and you'll be replaced by Number
5 17, Sherri Kemper, who will take the
6 stand, please, in Number 4.

7 You may continue on challenge for
8 questioning of this juror.

9 (Prospective Juror Williams
10 excused.)

11 MR. TIEGER: Hello, Ms. Kemper.

12 PROSPECTIVE JUROR KEMPER: Hello.

13 MR. TIEGER: Anything that you
14 would like to let us know about, any of
15 the answers or questions that you would
16 like to comment on at all?

17 PROSPECTIVE JUROR KEMPER: The only
18 thing was on the --

19 THE COURT: Ma'am, be sure to keep
20 your voice up, please.

21 PROSPECTIVE JUROR KEMPER: Where it
22 asked if anyone, family had been a victim
23 of a crime. My daughter was carjacked
24 when she was 17.

25 MR. TIEGER: How old is she now?

1 PROSPECTIVE JUROR KEMPER:

2 Twenty-four.

3 MR. TIEGER: Didn't happen here in
4 Cincinnati?

5 PROSPECTIVE JUROR KEMPER: Yes.

6 MR. TIEGER: What were the basic
7 facts of what happened?

8 PROSPECTIVE JUROR KEMPER: She was
9 carjacked, her baby in the car and a guy
10 come up on her with a knife and tried to
11 get her to get in the car. She refused,
12 she told him she wasn't getting in the
13 car. She took the baby and he took the
14 car. They found her car about four hours
15 later a few blocks down the street.

16 MR. TIEGER: What part of town did
17 that happen in?

18 PROSPECTIVE JUROR KEMPER: Elmwood.

19 MR. TIEGER: Was this a total
20 stranger?

21 PROSPECTIVE JUROR KEMPER: Yes.

22 MR. TIEGER: Did Elmwood Police get
23 involved?

24 PROSPECTIVE JUROR KEMPER: Yes.

25 MR. TIEGER: Vanover, do you know

1 him at all?

2 PROSPECTIVE JUROR KEMPER: No.

3 MR. TIEGER: Just normal.

4 PROSPECTIVE JUROR KEMPER: I don't
5 know any of them, the officers, but they
6 never caught anyone. When they found the
7 car, the knife was underneath of it. She
8 got it back like a few hours afterwards.

9 MR. TIEGER: Do you know if she was
10 satisfied, or were you satisfied as her
11 mom with what the police did to try to
12 locate the person that had done that?

13 PROSPECTIVE JUROR KEMPER: I guess.
14 I don't know that -- it was just so
15 random and so quick that they said it was
16 probably just a kid being -- well, he was
17 a teenager and we never heard any more
18 about it.

19 MR. TIEGER: Okay. And what did --
20 she is the one that is a teller now?

21 PROSPECTIVE JUROR KEMPER: Yes.

22 MR. TIEGER: Supervisor?

23 PROSPECTIVE JUROR KEMPER: Uh-huh.

24 MR. TIEGER: And you work at Lowes?

25 PROSPECTIVE JUROR KEMPER: Yes.

1 MR. TIEGER: How long you have been
2 at Lowes?

3 PROSPECTIVE JUROR KEMPER: Just
4 since February of last year.

5 MR. TIEGER: Okay. What were you
6 doing before that?

7 PROSPECTIVE JUROR KEMPER: Worked
8 in the office in North Side.

9 THE COURT: Ma'am, remember, keep
10 your voice up, please.

11 PROSPECTIVE JUROR KEMPER: I was --

12 MR. TIEGER: I have the microphone,
13 it's easier, so it is harder to speak up.
14 It's a big room.

15 PROSPECTIVE JUROR KEMPER: I was a
16 sales associate in a business down in
17 North Side.

18 MR. TIEGER: What type of stuff
19 would you do at Lowes?

20 PROSPECTIVE JUROR KEMPER: Customer
21 service desk.

22 MR. TIEGER: Is that like return?

23 PROSPECTIVE JUROR KEMPER: Yeah.

24 MR. TIEGER: And different --

25 PROSPECTIVE JUROR KEMPER: Yes.

1 MR. TIEGER: So you would deal with
2 a lot of people on a day-to-day basis
3 with various issues, problems?

4 PROSPECTIVE JUROR KEMPER: Yes.

5 MR. TIEGER: Sometimes happy,
6 sometimes not so happy?

7 PROSPECTIVE JUROR KEMPER: Yes.

8 MR. TIEGER: Which Lowes do you
9 work at?

10 PROSPECTIVE JUROR KEMPER:
11 Springdale.

12 MR. TIEGER: And it looks like you
13 also have prior jury service as well?

14 PROSPECTIVE JUROR KEMPER: Yes.

15 MR. TIEGER: Do you remember what
16 type of case that was?

17 PROSPECTIVE JUROR KEMPER: It was a
18 possession, narcotics.

19 MR. TIEGER: Did you deliberate in
20 that case?

21 PROSPECTIVE JUROR KEMPER: Yes.

22 MR. TIEGER: And reach a verdict?

23 PROSPECTIVE JUROR KEMPER: Yes.

24 MR. TIEGER: Thank you, Ms. Kemper.
25 Pass for cause, Judge. Thank you.

1 THE COURT: Ms. Williams or Mr.
2 Whalen?

3 MS. WILLIAMS: Good morning,
4 Ms. Kemper.

5 PROSPECTIVE JUROR KEMPER: Good
6 morning.

7 MR. WHALEN: You said -- I'm sorry.
8 I might have missed it if he's -- you
9 said it was back in the '80s when you
10 served as a juror?

11 PROSPECTIVE JUROR KEMPER: Yes.

12 MR. WHALEN: What kind of case was
13 it?

14 PROSPECTIVE JUROR KEMPER: Drug
15 possession.

16 MS. WILLIAMS: And you guys were
17 able to come to a decision on that case?

18 PROSPECTIVE JUROR KEMPER: Yes.

19 MS. WILLIAMS: Okay. And you lived
20 in Cincinnati your entire life, or --

21 PROSPECTIVE JUROR KEMPER: Except
22 for a couple years I moved out to Brown
23 County.

24 MS. WILLIAMS: Way out there, or so
25 I say. And there is -- again, there is

1 nothing that you've heard asked that
2 would make you sway one way or another
3 before or against the defendant in this
4 matter?

5 PROSPECTIVE JUROR KEMPER: No.

6 MS. WILLIAMS: You would be able to
7 listen to all the evidence?

8 PROSPECTIVE JUROR KEMPER: Yes.

9 MS. WILLIAMS: No further
10 questions.

11 THE COURT: You pass for cause.
12 Okay. At this time would the defense
13 like to approach?

14 MR. WHALEN: Yes, Your Honor.

15 THE COURT: Approach the court.

16 (The following transpired at
17 sidebar:)

18 THE COURT: Would you like to
19 exercise your first peremptory challenge?

20 MR. WHALEN: Yes, Number ten.

21 THE COURT: Thanks and excuse
22 Number ten. Okay. And she'll be
23 replaced by Sarah Lavelle. Okay. Thank
24 you.

25 (Sidebar concluded.)

1 THE COURT: All right. Court is
2 back in session. And I would like to
3 thank and excuse Juror Number ten. We
4 appreciate your participation. You're
5 excused. That would be Catherine Heintz,
6 you are thanked and excused, and thank
7 you for your participation, ma'am, and
8 your truthful, honest answers which have
9 lead to this exercise. Will Sarah
10 Lavelle step forward, Number 18, and
11 would you have a seat there to replace
12 Ms. Heintz, Number ten. Thank you.

13 (Prospective Juror Heintz excused.)

14 THE COURT: And the next thing that
15 will happen is the attorneys are going to
16 question you for cause first.

17 MR. TIEGER: Yes, Judge. Hello
18 Ms. Lavelle.

19 PROSPECTIVE JUROR LAVELLE: Hello.

20 MR. TIEGER: Anything you would
21 like to let us know about yourself or
22 comment on any of the questions that we
23 asked?

24 PROSPECTIVE JUROR LAVELLE: No.

25 MR. TIEGER: Did you raise your

1 hand Monday at all on anything?

2 PROSPECTIVE JUROR LAVELLE: I did.
3 I don't remember what it was now though.

4 MR. TIEGER: Maybe about a victim
5 of a crime?

6 PROSPECTIVE JUROR LAVELLE:
7 Actually it was related to a police
8 officer.

9 MR. TIEGER: Okay. Okay. And it
10 looks like your -- is it brother-in-law?

11 PROSPECTIVE JUROR LAVELLE: Yes.

12 MR. TIEGER: What department is he
13 with?

14 PROSPECTIVE JUROR LAVELLE:
15 Cincinnati.

16 MR. TIEGER: What's his name?

17 PROSPECTIVE JUROR LAVELLE: Kevin
18 Butler.

19 MR. TIEGER: Do you know what
20 district or division he's in?

21 PROSPECTIVE JUROR LAVELLE: I can't
22 remember right now. The Pleasant Ridge
23 area.

24 MR. TIEGER: Okay. Okay. And this
25 is a Cincinnati Police case, although it

1 did happen downtown so he would not be
2 involved. The fact there is other
3 Cincinnati Police, is that -- do you
4 think you could be fair to Mr. Jordan?

5 PROSPECTIVE JUROR LAVELLE: Yes.

6 MR. TIEGER: And you're a teacher,
7 Ms. Lavelle --

8 PROSPECTIVE JUROR LAVELLE: Yes.

9 MR. TIEGER: -- at Oak Hills. How
10 long have you been at Oak Hills?

11 PROSPECTIVE JUROR LAVELLE: About
12 15 years.

13 MR. TIEGER: And I know it's a
14 very, very large school.

15 PROSPECTIVE JUROR LAVELLE: It is.

16 MR. TIEGER: Is it the biggest in
17 Ohio or --

18 PROSPECTIVE JUROR LAVELLE: It was.
19 I don't think we still are.

20 MR. TIEGER: What type of things do
21 you do at Oaks Hills? What do you teach?

22 PROSPECTIVE JUROR LAVELLE: I teach
23 ninth grade physical science, and ten
24 through 12 grade honors, physics.

25 MR. TIEGER: Okay. I won't even

1 pretend to go into that. Physical
2 science, is that like geology type of
3 things?

4 PROSPECTIVE JUROR LAVELLE: Physics
5 and chemistry, kind of a combination, a
6 lot of different topics.

7 MR. TIEGER: And did you say like
8 honors-type physics?

9 PROSPECTIVE JUROR LAVELLE: Uh-huh.

10 MR. TIEGER: So you get maybe
11 starting out in tenth grade and they
12 would maybe advance as they go to where
13 they're like in AP physics when they're
14 juniors or seniors?

15 PROSPECTIVE JUROR LAVELLE: Uh-huh.

16 MR. TIEGER: Is your background in
17 science?

18 PROSPECTIVE JUROR LAVELLE: My
19 degree is in education, but physics is my
20 focus.

21 MR. TIEGER: Did you -- has that
22 always been one of your focuses
23 throughout like college, that type of
24 thing?

25 PROSPECTIVE JUROR LAVELLE: Uh-huh.

1 MR. TIEGER: And it looks like the
2 NEA and Sierra Club are clubs that you
3 belong to?

4 PROSPECTIVE JUROR LAVELLE: Uh-huh.

5 MR. TIEGER: Tell me a little bit
6 about those.

7 PROSPECTIVE JUROR LAVELLE: The NEA
8 is the teacher's union, and the Sierra
9 Club is an environmental organization.

10 MR. TIEGER: Is that something you
11 participate in in terms of money or
12 causes, or would there be trips or things
13 like that that you're involved in?

14 PROSPECTIVE JUROR LAVELLE: Mostly
15 donations. I'm not really actively
16 involved.

17 MR. TIEGER: Okay. Thank you,
18 Ms. Lavelle. Pass for cause, Judge.

19 THE COURT: Thank you. Counsel for
20 the defense?

21 MR. WHALEN: Good morning.

22 PROSPECTIVE JUROR LAVELLE: Good
23 morning.

24 MR. WHALEN: Your husband is a
25 trainer at UC Health?

1 PROSPECTIVE JUROR LAVELLE: Yes.

2 MR. WHALEN: What type of training
3 does he do?

4 PROSPECTIVE JUROR LAVELLE: He
5 trains new hires on policies of the
6 company as well as any computer classes
7 that they need to take. And then people
8 that need to update their certifications
9 come in to do computer classes.

10 MR. WHALEN: And how long has he
11 been doing that?

12 PROSPECTIVE JUROR LAVELLE: Six
13 years.

14 MR. WHALEN: Okay. What'd he do
15 before that?

16 PROSPECTIVE JUROR LAVELLE: He
17 worked at the Montessori Learning Center,
18 preschool.

19 MR. WHALEN: Now, is it his brother
20 that's a police officer?

21 PROSPECTIVE JUROR LAVELLE: Yes.

22 MR. WHALEN: Okay. You said it was
23 Kevin Butler?

24 PROSPECTIVE JUROR LAVELLE: Yes.

25 THE COURT: There have been a lot

1 of Butlers that have come through the
2 Cincinnati Police Department. Is he part
3 of that family?

4 PROSPECTIVE JUROR LAVELLE: I don't
5 know anyone else in the family that's an
6 officer.

7 MR. WHALEN: Okay. All right. Do
8 you believe that police officers can lie?

9 PROSPECTIVE JUROR LAVELLE: I
10 believe that anybody could lie.

11 MR. WHALEN: Okay. So whether it's
12 a police officer or not, you're not going
13 to give that person any more credibility
14 than you would any other witness or would
15 you?

16 PROSPECTIVE JUROR LAVELLE: Um, I
17 think it's possible that they could lie.
18 It's hard for me to say whether I would
19 see them lying. I guess I would see them
20 as more correct but not that they
21 couldn't be lying.

22 MR. WHALEN: Okay. Just a moment.
23 Pass for cause, Your Honor.

24 THE COURT: Thank you very much.
25 And now we are going to approach again

1 for the discussion on the next peremptory
2 challenge.

3 (The following transpired at
4 sidebar:)

5 MR. TIEGER: Judge, we would --
6 we're going to excuse Juror Number 18,
7 which would be Ms. Lavelle.

8 THE COURT: Okay.

9 MR. TIEGER: The one that just went
10 on.

11 THE COURT: Okay.

12 MR. TIEGER: It was a hot seat.

13 MR. WHALEN: If we could have a
14 moment, we may be able to give you
15 another number now.

16 THE COURT: Okay. You want to do
17 that because Gregory Hand is coming up
18 next. Would you like to tell me who
19 you're going to in the future?

20 MR. WHALEN: We need to talk some
21 more. I'm sorry.

22 THE COURT: All right then, we'll
23 just proceed with this one.

24 (Sidebar concluded.)

25 THE COURT: We're back on the

1 record, and now the Court would like to
2 thank and excuse Juror Number 18,
3 Ms. Lavelle. Thank you very much for
4 your truthful answers and your
5 participation in today's proceedings, and
6 I hope you have the opportunity to serve
7 on another jury.

8 PROSPECTIVE JUROR LAVELLE: Thank
9 you.

10 (Prospective Juror Lavelle
11 excused.)

12 THE COURT: And I would like to ask
13 Mr. Gregory Hand, Number 19, to step
14 forward and have a seat in Number ten.
15 Thank you. And you'll now be questioned
16 for cause by the State.

17 MR. TIEGER: Hello, Mr. Hand.

18 PROSPECTIVE JUROR HAND: Good
19 morning.

20 MR. TIEGER: I think you had raised
21 your hand during the Monday session.

22 PROSPECTIVE JUROR HAND: Yes, sir.

23 MR. TIEGER: I forget whether we
24 talked or you got to let us know what
25 your thoughts were on a particular

1 question.

2 PROSPECTIVE JUROR HAND: You asked
3 if anybody knew Prosecutor Deters.

4 MR. TIEGER: Okay. Do you know
5 Prosecutor Deters?

6 PROSPECTIVE JUROR HAND: Yes.

7 MR. TIEGER: Okay. How do you know
8 him?

9 PROSPECTIVE JUROR HAND: He was,
10 for nine years, a member of the Board of
11 Trustees at the University. I'm the
12 director of Public Relations for the
13 University, so I worked pretty closely
14 with the Board.

15 MR. TIEGER: So you would be
16 involved in meetings, maybe social
17 events?

18 PROSPECTIVE JUROR HAND: Not so
19 much social events, but in the planning
20 of every meeting, dealing with media at
21 the meetings, responses to the public and
22 the media about Board decisions.

23 MR. TIEGER: Okay. What was your
24 impression of Joe? Did you get along
25 with him okay, thought he was fair,

1 honest, no bad thoughts at all?

2 PROSPECTIVE JUROR HAND: I have no
3 bad thoughts.

4 MR. TIEGER: Because he's Megan and
5 my boss. What we need to know, if you
6 know him in a professional relationship,
7 we work for him, whether that would
8 influence you, whether you could be fair
9 to Mr. Jordan or not is basically what I
10 was getting at.

11 PROSPECTIVE JUROR HAND: I don't
12 think it would affect my concept of
13 fairness.

14 MR. TIEGER: Okay. Tell me a
15 little bit about your job and what you
16 do.

17 PROSPECTIVE JUROR HAND: As I
18 indicated, I'm director of Public
19 Relations for the University. We work
20 with the media very closely and we get
21 involved in all of the communication
22 activities of the University. In
23 particular, I'm generally on the bad news
24 side of things, so I get involved with
25 crises and emergencies and disturbances

1 of the various sorts.

2 MR. TIEGER: Okay. It looks like
3 in what your answer was on whether you
4 know any police officers, that you get
5 involved in criminal-type activities, I
6 know there was, for instance, some
7 robberies or people that were shot
8 recently at maybe in the Short Vine area
9 or different areas. I know there is
10 warnings to the students to be careful of
11 a certain area or certain garage or --

12 PROSPECTIVE JUROR HAND: I'm the
13 one who sends those communications to the
14 students and the faculty.

15 MR. TIEGER: Okay. And would that
16 mean meeting with the U.C. police
17 officers and they would maybe be alerting
18 you as to what's going on, and then you
19 would relate that on how you would
20 disseminate that to the general public?

21 PROSPECTIVE JUROR HAND: Yes, there
22 is emergency response team avenues by a
23 member of the emergency response team.
24 We develop a variety of plans for various
25 contingencies at the University. And

1 because of that, I am in the offices at
2 least quite a bit.

3 MR. TIEGER: And just the next
4 question, just to get right to the bottom
5 line, is that, you know, Ms. Shanahan and
6 I are going to be arguing to you, along
7 with law enforcement, that Mr. Jordan did
8 what we say he did, shot and killed
9 Mr. Davis. And we are going to be
10 working with law enforcement. You work
11 with law enforcement on a daily basis, do
12 you think you would believe or side with
13 us more than you should to the detriment
14 of Mr. Jordan, or can you play it
15 straight down the middle? Because if you
16 think you're going to side with us right
17 off the bat, then it's probably not right
18 that you're a juror. But if you think
19 despite what you do or -- obviously
20 nobody can really keep your background
21 behind them, keep that here, but play it
22 fair and straight down the middle.

23 PROSPECTIVE JUROR HAND: I don't
24 believe I carry a prejudice.

25 MR. WHALEN: Okay. You can be fair

1 to both sides?

2 PROSPECTIVE JUROR HAND: I think
3 so.

4 MR. WHALEN: Also looks like you
5 served on juries before.

6 PROSPECTIVE JUROR HAND: Yes, sir.

7 MR. TIEGER: And it looks like also
8 you were sued?

9 PROSPECTIVE JUROR HAND: Yes.

10 MR. TIEGER: How long ago was that?

11 PROSPECTIVE JUROR HAND: Fifteen
12 years ago. That involved a criminal case
13 at the University. The professor was
14 charged with selling grades to the
15 students. He was arrested and charged.
16 He was found innocent and sued myself and
17 the police department for libel and
18 slander. And I was involved with the
19 case for a little over a year until both
20 the police and I were cleared of the
21 accusations.

22 MR. TIEGER: Was that here in this
23 courthouse?

24 PROSPECTIVE JUROR HAND: No.

25 MR. TIEGER: Federal court?

1 PROSPECTIVE JUROR HAND: No, it's
2 Court of Claims.

3 MR. TIEGER: Okay. And I know you
4 must keep busy at UC because with that
5 big of a population there is a lot going
6 on. I know I was involved in -- I don't
7 know if you remember Donald Little, the
8 basketball player, his case and various
9 rape cases I've had over the years that
10 have taken place on campus different
11 other cases, so there are -- those are
12 type of things that you know something
13 about. We have never met I know.

14 PROSPECTIVE JUROR HAND: No.

15 MR. TIEGER: Okay. And that it
16 looks like you or your family have been
17 the victim of a crime at some point?

18 PROSPECTIVE JUROR HAND: Yes.

19 MR. TIEGER: What type of crime was
20 that?

21 PROSPECTIVE JUROR HAND: A few
22 years back my daughter was robbed at
23 gunpoint, at an ATM, she was with a
24 friend of hers and they were ordering
25 with money.

1 MR. TIEGER: What part of town was
2 this?

3 PROSPECTIVE JUROR HAND: Covedale.

4 MR. TIEGER: Was anybody ever
5 caught?

6 PROSPECTIVE JUROR HAND: Someone
7 was caught. My daughter was never asked
8 to participate in any trials, so I'm not
9 sure what --

10 MR. TIEGER: Was she hurt at all?

11 PROSPECTIVE JUROR HAND: She was
12 not.

13 MR. TIEGER: Thank you, Mr. Hand.
14 Pass for cause, Judge.

15 THE COURT: All right. You may
16 continue with cause, challenge for cause.
17 And, defense, Ms. Williams?

18 MS. WILLIAMS: Yes. Good morning,
19 Mr. Hand. I see on your paper here, your
20 questionnaire, that you had said that you
21 have been a victim of a robbery, assault
22 and theft and burglary, or did -- all
23 those didn't all happen at the same time,
24 or were they all part of your daughter's
25 incident or --

1 PROSPECTIVE JUROR HAND: No. House
2 had been burglarized once. I had a car
3 stolen.

4 MS. WILLIAMS: I know recently
5 there has been a lot of news about crimes
6 going on around the University of
7 Cincinnati campus. Has that made you
8 frightened for being at work or around
9 the campus at all?

10 PROSPECTIVE JUROR HAND: Actually,
11 there has been a lot of discussion about
12 crime at the University. The statistics
13 I have is crime in the neighborhood has
14 been decreasing, so, no, I have been
15 there a long time.

16 MS. WILLIAMS: So the news stories
17 and everything about crime increasing in
18 the area in the media can blow things up,
19 obviously. Those don't affect your
20 opinion as to this case or anything?

21 PROSPECTIVE JUROR HAND: No, ma'am.

22 MS. WILLIAMS: Just a moment. No
23 further questions. We'll pass for cause.

24 THE COURT: You pass for cause?

25 MS. WILLIAMS: Thank you.

1 THE COURT: Thank you very much.
2 And now we'll move on. By the way, there
3 are -- each side does have four
4 peremptory challenges, and we are moving
5 to the third category of that, so would
6 the attorneys approach?

7 MR. WHALEN: Could you give us a
8 couple minutes?

9 THE COURT: Yes. No, it is the
10 defense's. Okay.

11 MR. WHALEN: We are ready, Your
12 Honor. Thank you.

13 THE COURT: Counsel, approach
14 sidebar.

15 (The following transpired at
16 sidebar as follows:)

17 MR. WHALEN: We are going to excuse
18 Mr. Gregory Hand.

19 THE COURT: What?

20 MR. WHALEN: Gregory Hand that they
21 just put in.

22 THE COURT: Okay. All right. He's
23 Number 18 -- Number 19. Okay. Thank
24 you.

25 (Sidebar concluded.)

1 THE COURT: Court is back in
2 session. I would like at this time to
3 thank and excuse Number 19, Mr. Gregory
4 Hand. Thank you very much for your
5 testimony and your answers today that you
6 forthrightly gave us, and we hope that
7 you have the opportunity to participate
8 in another jury.

9 PROSPECTIVE JUROR HAND: Thank you,
10 Judge.

11 THE COURT: Thank you very much.

12 (Prospective Juror Hand excused.)

13 THE COURT: And I would like to ask
14 Christine Bernhard, Number 20, to please
15 step forward and have a seat in Number
16 ten. It seems to be the hot seat today.

17 Counsel, you may both proceed
18 starting with the prosecution and
19 question for cause.

20 MR. TIEGER: Thank you, Judge. Ms.
21 Bernhard, Ms. Shanahan reminded me that
22 you raised your hand. Okay. Can you
23 tell me a little bit about that?

24 PROSPECTIVE JUROR BERNHARD: It
25 was -- if I'm not stating the question

1 correctly it was: Do you know somebody
2 who's been arrested?

3 MR. TIEGER: Okay.

4 PROSPECTIVE JUROR BERNHARD: Yeah,
5 my husband, before we were married.

6 MR. TIEGER: Okay.

7 PROSPECTIVE JUROR BERNHARD: For
8 DUI.

9 MR. TIEGER: Okay. When was that?
10 Was that a while ago or --

11 PROSPECTIVE JUROR BERNHARD: It was
12 when we were still in college, so...

13 MR. TIEGER: Were you with him at
14 the time --

15 PROSPECTIVE JUROR BERNHARD: No.

16 MR. TIEGER: -- in the car?

17 PROSPECTIVE JUROR BERNHARD: No,
18 no.

19 MR. TIEGER: That's okay. Did you
20 know what happened on the case in terms
21 of him going to trial or admitting that
22 he was --

23 PROSPECTIVE JUROR BERNHARD: He
24 just did no contest, I think. Either
25 guilty or no contest. I'm not really

1 sure.

2 MR. TIEGER: He did the test, the
3 breath test?

4 PROSPECTIVE JUROR BERNHARD: I'm
5 pretty sure he did the test.

6 MR. TIEGER: And was over?

7 PROSPECTIVE JUROR BERNHARD: Yeah.

8 MR. TIEGER: Does he feel -- did
9 you feel that he was treated fairly by
10 the police or the Court?

11 PROSPECTIVE JUROR BERNHARD: Yep.

12 MR. TIEGER: And no further trouble
13 since then at all?

14 PROSPECTIVE JUROR BERNHARD: No.

15 MR. TIEGER: Okay. Who do you work
16 for, Ms. Bernhard?

17 PROSPECTIVE JUROR BERNHARD:
18 Technically, Dell, Inc. or Dell
19 Computers.

20 MR. TIEGER: Okay. And what type
21 of things do you do for Dell?

22 PROSPECTIVE JUROR BERNHARD: I'm
23 actually a consultant. They just bought
24 the company that I used to work for.
25 It's not really the computer piece of it,

1 that kind of stuff, more business
2 solution, business practice with Dell.

3 MR. TIEGER: Would a business come
4 to you for help with their system that
5 you would help them, or how does that
6 work?

7 PROSPECTIVE JUROR BERNHARD: It
8 would be more that a company like Procter
9 & Gamble would say they want to implement
10 a PC software. Then I would select a
11 vender to come there and help them with
12 what implementation process. I'm just
13 using PG as an example. And then that's
14 when myself and the rest of our team
15 would go in and help them design their
16 process and put in the system.

17 MR. TIEGER: Would you actually go
18 to that other company then and help them?

19 PROSPECTIVE JUROR BERNHARD: In
20 most cases, yes.

21 MR. TIEGER: Set it this up,
22 allowing for a process, what would that
23 take necessarily to set up a SAP process?

24 PROSPECTIVE JUROR BERNHARD:
25 Anywhere from six months to 18 months

1 usually for first round implementation.

2 MR. TIEGER: And were you trained
3 in a school, or is that something you
4 just picked up on?

5 PROSPECTIVE JUROR BERNHARD: No,
6 it's something I just sort of picked up.
7 I graduated with marketing in finance and
8 went into what was Anderson Consults, so
9 just went to consulting. I was trained
10 on that.

11 MR. TIEGER: You had marked when
12 they asked you do you think you would be
13 a good juror, do you remember what you
14 put?

15 PROSPECTIVE JUROR BERNHARD:
16 Depends.

17 MR. TIEGER: Okay. Can you tell me
18 a little bit about that?

19 PROSPECTIVE JUROR BERNHARD: Well,
20 it really just depends. I just need to
21 take in a lot of information, and I'm
22 struggling with blaming people or, you
23 know, pointing fingers because I think
24 it's really -- you're an independent
25 person and you can kind of come up with

1 your own solutions.

2 MR. TIEGER: Okay.

3 PROSPECTIVE JUROR BERNHARD: I
4 guess, so I have a difficult time finding
5 people at fault with other people's
6 problems, you know what I mean?

7 MR. TIEGER: Could you elaborate on
8 that a little bit?

9 PROSPECTIVE JUROR BERNHARD: I
10 don't know. I didn't say it very well.
11 I'm not explaining it very well. But I
12 think I'm a good juror in so much as I
13 can take in a lot of information,
14 thoughtful, that type of deal. But I
15 think also, you know, it just depends on
16 the character of the people, and they are
17 not taking responsibility for their piece
18 of it, I struggle with.

19 MR. TIEGER: Okay. If they were
20 blaming somebody else for what they did
21 themselves?

22 PROSPECTIVE JUROR BERNHARD: Right,
23 for what they caused, yes, I struggle
24 with that.

25 MR. TIEGER: You somewhat heard

1 myself and Mr. Whalen talk about the
2 facts of the case?

3 PROSPECTIVE JUROR BERNHARD:

4 Uh-huh.

5 MR. TIEGER: What's kind of going
6 on. In this case, I mean, you do have a
7 person, Kareem Gilbert, who's the son
8 that is going to be, in essence, saying I
9 did this, but he did this other thing, so
10 there is going to be somewhat of pointing
11 the finger at somebody else for doing
12 something, they're going to say they are
13 not even responsible for that second act.

14 PROSPECTIVE JUROR BERNHARD: Right.

15 MR. TIEGER: Is that the type of
16 thing that might work into your problem
17 area?

18 PROSPECTIVE JUROR BERNHARD:

19 Problem area?

20 MR. TIEGER: Sorry to call it that.

21 PROSPECTIVE JUROR BERNHARD: That's
22 okay. I don't think so.

23 MR. TIEGER: Okay.

24 PROSPECTIVE JUROR BERNHARD: I
25 think that's just explaining the facts as

1 that person knows it --

2 MR. TIEGER: Okay.

3 PROSPECTIVE JUROR BERNHARD: --
4 that's presenting it.

5 MR. TIEGER: And it looks like you
6 have served as a juror before on a civil
7 case?

8 PROSPECTIVE JUROR BERNHARD: I did.
9 A personal injury. I believe it was a
10 drunk driver who passed in the accident,
11 passed way in the accident and the
12 plaintiff was suing the estate months
13 after.

14 MR. TIEGER: Gotcha. Wrongful
15 death?

16 PROSPECTIVE JUROR BERNHARD: No,
17 no, the plaintiff -- am I getting it
18 wrong? Somebody was suing the State, a
19 drunk driver.

20 MR. TIEGER: Gotcha. Gotcha. For
21 what the drunk driver had done?

22 PROSPECTIVE JUROR BERNHARD: Yeah.
23 But the man claimed that he had follow-up
24 back injury like earlier.

25 MR. TIEGER: Okay. Gotcha. Okay.

1 Thanks, honestly, Ms. Bernard. No, you
2 did fine. Thank you.

3 THE COURT: You pass for cause?

4 MR. TIEGER: Yes, Your Honor.

5 THE COURT: Okay. Mr. Whalen,
6 you're going to proceed.

7 MR. WHALEN: Ms. Bernard, I'm
8 curious to find out how somebody who's
9 born in New York goes to school at the
10 University of Dayton ends up in
11 Cincinnati, Ohio?

12 PROSPECTIVE JUROR BERNHARD: Well,
13 it's interesting, they recruit evidently
14 in western New York, I guess.

15 MR. WHALEN: I was worried your
16 parents were gypsies or something.

17 PROSPECTIVE JUROR BERNHARD: No,
18 that would have been fun though, just
19 Catholic.

20 MR. WHALEN: That's not fun, I can
21 tell you. You talked about your husband,
22 and let me -- not just a DUI, but if your
23 husband is charged with a crime, would
24 you be one of the kind of jurors that you
25 would want to sit in on this case if he's

1 being tried for it?

2 PROSPECTIVE JUROR BERNHARD: Yes.

3 MR. WHALEN: You indicate that
4 you're very positive toward police
5 officers. Can you tell me what you mean
6 by very positive?

7 PROSPECTIVE JUROR BERNHARD: I
8 think I answered that. Yes, I'm very
9 positive towards police officers,
10 generally speaking. I think it's amazing
11 that somebody would dedicate their lives
12 to that. I think that's a really noble
13 career path.

14 MR. WHALEN: And do you think these
15 noble people can lie?

16 PROSPECTIVE JUROR BERNHARD: I do.
17 I think anybody can lie.

18 MR. WHALEN: All right. So if a
19 police officer comes in here to testify,
20 he's not raised to a particular higher
21 level than any other witness when he
22 comes in?

23 PROSPECTIVE JUROR BERNHARD: I
24 think by the nature of his business and
25 by the nature of who he or she, you know

1 what they dedicate their lives to, I
2 think they get a little bit of a benefit
3 of the doubt. But I think it would also,
4 you know -- I would have to take in what
5 they are saying and understand where they
6 are coming from and how I feel about
7 that.

8 MR. WHALEN: So if this young lady
9 seated here comes in and tells you
10 something is black, the police officer
11 walks in and says it's white, you're
12 going to lean toward what the police
13 officer said than what this woman said?

14 PROSPECTIVE JUROR BERNHARD: I
15 probably would. Yes, I would.

16 MR. WHALEN: Believe me, I
17 appreciate your honesty and the
18 struggling that you have done with your
19 answers. I mean, clearly you think
20 through what you're doing. Next time you
21 won't answer so well.

22 PROSPECTIVE JUROR BERNHARD: No,
23 no.

24 MR. WHALEN: Okay.

25 THE COURT: You pass for cause?

1 MR. WHALEN: Just a second.

2 THE COURT: All right.

3 MR. WHALEN: Pass for cause, Your
4 Honor.

5 THE COURT: Well, thank you. And
6 now, approach one other time.

7 MR. TIEGER: Can I just have a
8 minute, Judge, also?

9 THE COURT: Yes.

10 MR. TIEGER: Thanks.

11 (The following transpired at
12 sidebar as follows:)

13 MR. WHALEN: We want to remove the
14 court reporter.

15 MR. TIEGER: I object, Judge. We
16 are going to excuse Mr. Bernhard.

17 THE COURT: Okay. He is on the hot
18 seat.

19 MS. WILLIAMS: What number is that?

20 MR. TIEGER: The one we just did.
21 Number ten, I indicated.

22 (Sidebar concluded.)

23 THE COURT: All right. Court is
24 back in session, and we are going to
25 thank and excuse juror -- Ms. Bernhard.

1 Thank you very much for your attendance
2 and appearance and answers today. I do
3 hope you found this rewarding and are
4 able to serve on a jury.

5 PROSPECTIVE JUROR BERNHARD: Thank
6 you.

7 (Prospective Juror Bernhard
8 excused.)

9 THE COURT: And also Juror Number
10 21, Jessie Ricketts, please come forward
11 and sit in the hot seat, Number ten. You
12 may be seated. Now the questions for
13 cause.

14 MR. TIEGER: Hello, Ms. Ricketts.

15 PROSPECTIVE JUROR RICKETTS: Hi.

16 MR. TIEGER: Um, anything you would
17 like to let us know about yourself or any
18 of your answers?

19 PROSPECTIVE JUROR RICKETTS: Yeah,
20 I think I filled out that form a little
21 too fast. I didn't fill out any
22 information about people in my family
23 that has been arrested before.

24 MR. TIEGER: Okay.

25 PROSPECTIVE JUROR RICKETTS: When I

1 was six years old, my dad spent a year in
2 the federal penitentiary for falsifying
3 documents. He owned a coal mine. And
4 then I think my sister has also been
5 arrested for a DUI, but my mom won't tell
6 us exactly.

7 MR. TIEGER: Okay.

8 PROSPECTIVE JUROR RICKETTS: She's
9 hiding it from us.

10 MR. TIEGER: This wasn't -- that's
11 just something that's kind of secret
12 between your mom and your sister?

13 PROSPECTIVE JUROR RICKETTS: Yeah.

14 MR. TIEGER: Okay. And your dad's
15 situation, was that -- let's see, it
16 looks like you're from West Virginia. Was
17 that in West Virginia?

18 PROSPECTIVE JUROR RICKETTS: Yes.

19 MR. TIEGER: Do you remember much
20 about that? You said you were six?

21 PROSPECTIVE JUROR RICKETTS: I
22 mean, at the time I was just told he
23 stole a car because that's the only way I
24 was, obviously, going to be able to
25 understand it. But as I have gotten

1 older and read documents, I just know
2 that he owned a coal mine. I think it
3 was about trying to get the coal mine
4 open and all of the safety regulations.
5 So he just lied about -- I'm not sure
6 about what, got people to sign documents
7 that weren't legitimate. I also think he
8 was tied into investors that were kind of
9 bigger people, somehow he was tied into
10 other investors that he knew to be kind
11 of doing illegal things as well, and so
12 my dad was not just dealing with very
13 legitimate people and got tied into all
14 that and went to jail.

15 MR. TIEGER: Okay. So he was gone
16 for a short period of time when you were
17 a child?

18 PROSPECTIVE JUROR RICKETTS: Yes.

19 MR. TIEGER: Came back and never
20 really talked about it. I'm sure since
21 you have been grown up, have you had a
22 chance to talk to him about what had
23 happened?

24 PROSPECTIVE JUROR RICKETTS: No.

25 MR. TIEGER: Does he know that you

1 know what he went to jail for?

2 PROSPECTIVE JUROR RICKETTS: Yeah.
3 Yeah.

4 MR. TIEGER: Okay. Are you okay
5 with how well that went? I mean, I know
6 we all love our families, and you know,
7 without getting too deep into it, but I
8 mean our mothers and fathers are,
9 especially when they're that young, I
10 mean, they can do no wrong and then all
11 the sudden he's in jail.

12 PROSPECTIVE JUROR RICKETTS: Yeah.
13 I mean, I kind of accept my dad for the
14 person that he is and it hasn't really, I
15 don't think, affected me, the jail part
16 has never really affected me much.

17 MR. TIEGER: Do you feel that he
18 was treated fairly and that he
19 acknowledged that he got involved with
20 the wrong group of people and did things
21 that he shouldn't have done?

22 PROSPECTIVE JUROR RICKETTS: Yes.

23 MR. TIEGER: And he paid a price
24 for it?

25 PROSPECTIVE JUROR RICKETTS: Yes.

1 MR. TIEGER: Moving on from that.
2 You went to Xavier?

3 PROSPECTIVE JUROR RICKETTS:
4 Uh-huh.

5 MR. TIEGER: And then Landor
6 Associates, what type of company is that?

7 PROSPECTIVE JUROR RICKETTS: It's a
8 branding and design agency. We work --
9 P&G is our biggest client here in
10 Cincinnati.

11 MR. TIEGER: How long have you been
12 with them?

13 PROSPECTIVE JUROR RICKETTS: Seven
14 years.

15 MR. TIEGER: What type of things do
16 you do for them?

17 PROSPECTIVE JUROR RICKETTS: I am a
18 senior line manager, so I work directly
19 with our clients at mostly P&G and come
20 back and talk to our design team about
21 how to mostly develop packaging design
22 for them.

23 MR. TIEGER: Okay. So Crest or --

24 PROSPECTIVE JUROR RICKETTS: Bingo.

25 MR. TIEGER: Any of that, the box?

1 PROSPECTIVE JUROR RICKETTS: Yeah.
2 General defining elements.

3 MR. TIEGER: The color?

4 PROSPECTIVE JUROR RICKETTS:
5 Exactly.

6 MR. TIEGER: Okay. I know there is
7 a lot of time spent on that. It looks
8 simple, but I know there is a lot of
9 studies and things like that.

10 PROSPECTIVE JUROR RICKETTS: Uh-huh.

11 MR. TIEGER: Okay. So you enjoy
12 what you do?

13 PROSPECTIVE JUROR RICKETTS: Yeah.

14 MR. TIEGER: And when you were
15 asked whether you would be a good juror,
16 you put that you weren't sure?

17 PROSPECTIVE JUROR RICKETTS: Just I
18 have never done it before, so until I got
19 in here and understood the process and
20 learned any information, I just didn't
21 feel like I could answer that question.

22 MR. TIEGER: How about now, you
23 kind of been through a couple days of
24 this.

25 PROSPECTIVE JUROR RICKETTS: I feel

1 like I could be a good juror.

2 MR. TIEGER: Okay. Thank you,
3 Ms. Ricketts. Pass for cause, Judge.

4 THE COURT: All right. Thank you.

5 MR. WHALEN: Your maiden name
6 wasn't Goddy, was it?

7 PROSPECTIVE JUROR RICKETTS: No.

8 MR. WHALEN: Okay. You say here
9 the police officers are here to protect
10 us. And I don't think anybody is going
11 to disagree with that, but if a police
12 officer comes in and testifies, are you
13 going to automatically believe what they
14 say?

15 PROSPECTIVE JUROR RICKETTS: No.

16 MR. WHALEN: You will judge them
17 like all the other witnesses?

18 PROSPECTIVE JUROR RICKETTS: Yes.

19 MR. WHALEN: You have been in here
20 now and you're sure that you could be a
21 fair and impartial juror?

22 PROSPECTIVE JUROR RICKETTS: Yes.

23 MR. WHALEN: And when you go back
24 with the other jurors to make a decision,
25 you're going to put aside all of the

1 pictures that you saw and the
2 gruesomeness of the crime and family
3 members that have gone through a terrible
4 time, and reach a verdict that's based
5 solely upon the evidence and the law?

6 PROSPECTIVE JUROR RICKETTS: Yes.

7 MR. WHALEN: You have no problem
8 with that?

9 PROSPECTIVE JUROR RICKETTS: No
10 problem.

11 MR. WHALEN: Okay. May I have a
12 moment, Your Honor?

13 THE COURT: Yes.

14 MR. WHALEN: Pass for cause, Your
15 Honor.

16 THE COURT: All right. And I want
17 the attorneys to approach now, please,
18 again.

19 (The following transpired at
20 sidebar as follows:)

21 MR. WHALEN: We are going to get
22 rid of Number 7.

23 THE COURT: Number 7. Okay.
24 Excuse Number 7. All right.

25 MR. WHALEN: And let me -- how many

1 have we used?

2 THE COURT: This is your third.
3 You have -- this is your third. Each of
4 you have one left.

5 MR. TIEGER: Okay.

6 (Sidebar concluded.)

7 THE COURT: You may all be seated
8 please. We would like to thank and
9 excuse Juror Number 7, and she is to be
10 replaced by Number 22, Christopher
11 Powers. I want to thank Ms. Binkley. I
12 want to thank you for your participation
13 today. I hope it's been a rewarding
14 experience, and also hope you have the
15 opportunity to serve on a jury.

16 PROSPECTIVE JUROR BINKLEY: Thank
17 you.

18 THE COURT: Okay.

19 (Prospective Juror Binkley
20 excused.)

21 THE COURT: And at this time, yes,
22 have a seat there and now we will
23 continue with the challenge or
24 questioning for cause.

25 MR. TIEGER: We are getting close,

1 I promise. It shouldn't be that much
2 longer.

3 Mr. Powers, again, I know this is
4 getting a little bit redundant, but
5 anything that you would like to let us
6 know about yourself or any of the
7 questions we asked, any comments you
8 would like to make on that?

9 PROSPECTIVE JUROR POWERS: No, sir.

10 MR. TIEGER: You're fine with
11 everything that myself, Mr. Whalen,
12 Ms. Williams have talked about?

13 PROSPECTIVE JUROR POWERS: Yes,
14 sir.

15 MR. TIEGER: And based on all the
16 information that you have, do you think
17 you could be a fair juror to both sides?

18 PROSPECTIVE JUROR POWERS: Yes,
19 sir.

20 MR. TIEGER: You're at U.C?

21 PROSPECTIVE JUROR POWERS: Yes,
22 sir. Raymond Walters College, branch
23 campus, Blue Ash.

24 MR. TIEGER: And I know Mr. Burck
25 also works for UC and Mr. Hand, I forgot

1 to ask him also, now that he's not a
2 juror any more, but works for UC. Do you
3 and Mr. Burck know each other at all?

4 PROSPECTIVE JUROR POWERS: No, sir.

5 MR. TIEGER: Okay. And I know UC
6 is a very large institution. What do you
7 do for UC?

8 PROSPECTIVE JUROR POWERS: I'm
9 director of enrollment services. I'm
10 over admission, financial aid and
11 registration.

12 MR. TIEGER: And how long have you
13 been out at Raymond Walters?

14 PROSPECTIVE JUROR POWERS: Six
15 years.

16 MR. TIEGER: I know that's gotten
17 to be a very, very popular place to go
18 and very large campus.

19 PROSPECTIVE JUROR POWERS: Yes,
20 sir. Over 5,000 students.

21 MR. TIEGER: When you started, how
22 big was it?

23 PROSPECTIVE JUROR POWERS: Probably
24 4200.

25 MR. TIEGER: Okay. And then I know

1 years and years before that it was even a
2 lot smaller.

3 PROSPECTIVE JUROR POWERS: Sure,
4 3500 maybe.

5 MR. TIEGER: And what you said with
6 admissions and what else?

7 PROSPECTIVE JUROR POWERS:
8 Admissions, financial aid and
9 registration.

10 MR. TIEGER: Okay. And what type
11 of things would you do on a daily basis
12 then?

13 PROSPECTIVE JUROR POWERS: As a
14 director, I supervise a team of 13 people
15 in those areas and help students whenever
16 necessary with anything to do with
17 financial aid, admission or registration.
18 We are kind of a one-stop center, so
19 students come to us first.

20 MR. TIEGER: What got you
21 interested in working for the university?

22 PROSPECTIVE JUROR POWERS: My own
23 undergrad experience at Berea College in
24 Kentucky, enjoyed helping students, and I
25 have been in the career a little over ten

1 years and started at Hanover College.

2 MR. TIEGER: And then you got a lot
3 of kids at Raymond Walters, also, a lot
4 of kids that move down on the main
5 campus?

6 PROSPECTIVE JUROR POWERS: Main
7 campus, yes, sir.

8 MR. TIEGER: Do you help with that
9 as well?

10 PROSPECTIVE JUROR POWERS: Yes,
11 sir.

12 MR. TIEGER: And that goes credit
13 for credit, I think?

14 PROSPECTIVE JUROR POWERS: Depends
15 if they stay within the same major, yes,
16 sir.

17 MR. TIEGER: Okay. And it looks
18 like you also had some jury service a few
19 years ago.

20 PROSPECTIVE JUROR POWERS: Yes,
21 sir.

22 MR. TIEGER: Do you remember what
23 type of case that was?

24 PROSPECTIVE JUROR POWERS: I
25 believe one was a breaking and entering

1 and the other was a DUI case.

2 MR. TIEGER: And you deliberated on
3 those?

4 PROSPECTIVE JUROR POWERS: Yes,
5 sir.

6 MR. TIEGER: Thank you, Mr. Powers.
7 Pass for cause, Judge. Thank you.

8 THE COURT: Thank you. Defense may
9 continue.

10 MR. WHALEN: Mr. Powers, I may have
11 missed it. You may have been asked this
12 already, but you served on a jury in
13 2007?

14 PROSPECTIVE JUROR POWERS: Yes,
15 sir. I believe it was about that time.

16 MR. WHALEN: And what kind of jury
17 was it?

18 PROSPECTIVE JUROR POWERS: What
19 kind of case was it, sir?

20 MR. WHALEN: Yes.

21 PROSPECTIVE JUROR POWERS: One was
22 breaking and entering and the other was
23 DUI.

24 MR. WHALEN: And did you reach a
25 verdict in both of those?

1 PROSPECTIVE JUROR POWERS: Yes,
2 sir, if I remember correctly.

3 MR. WHALEN: And did you have any
4 difficulty sitting and talking with the
5 other jurors and debating back and forth
6 and making the decision?

7 PROSPECTIVE JUROR POWERS: No, sir.

8 MR. WHALEN: Okay. You've heard
9 the question that I've asked about the
10 police officers, you put here they are
11 public servants to the community.

12 PROSPECTIVE JUROR POWERS: Yes,
13 sir.

14 MR. WHALEN: Would you believe a
15 police officer more than you would
16 anybody else that comes into this room?

17 PROSPECTIVE JUROR POWERS: No, sir.

18 MR. WHALEN: So you would judge
19 them the same as you would everybody
20 else?

21 PROSPECTIVE JUROR POWERS: Yes,
22 sir.

23 MR. WHALEN: Pass for cause, Your
24 Honor.

25 THE COURT: Thank you, Counsel.

1 MR. TIEGER: Judge, we need just a
2 minute.

3 THE COURT: I'm going to turn on
4 the machine here. Would you like to
5 stand up? Jurors, you can do that. Can
6 you approach?

7 (The following transpired at
8 sidebar as follows:)

9 THE COURT: This is your last one.

10 MR. TIEGER: Yeah. Judge, we are
11 going to excuse Number 5, Ms. McKeegan.

12 THE COURT: Okay. All right.
13 Replace by Shelton, Number 23.

14 MR. TIEGER: Yes.

15 THE COURT: Okay.

16 (Sidebar concluded.)

17 THE COURT: You may all be seated.
18 And at this time we are going to thank
19 and excuse Number 5, Ms. Carmen McKeegan.
20 And Ms. McKeegan, thank you for your
21 participation today.

22 PROSPECTIVE JUROR MCKEEHAN: Thank
23 you.

24 THE COURT: We hope you found this
25 a rewarding experience. And I do hope

1 you have an opportunity to serve on a
2 jury.

3 PROSPECTIVE JUROR MCKEEHAN: Thanks.

4 THE COURT: You may go to the jury
5 commission. And would Mr. 23, Scott
6 Shelton, you are next. This will
7 continue on with -- when he's seated.
8 And you may now continue with questioning
9 for cause.

10 MR. TIEGER: Thank you, Judge.
11 Hello, Mr. Shelton.

12 PROSPECTIVE JUROR SHELTON: Hello.

13 MR. TIEGER: Again, you can
14 probably anticipate what I'm going to
15 ask. Anything you would like to comment
16 on?

17 PROSPECTIVE JUROR SHELTON: No,
18 sir.

19 MR. TIEGER: Okay. Based on
20 everything I have said, and Mr. Whalen,
21 Ms. Williams, do you think you could sit
22 with everybody else here on this panel,
23 be a fair juror?

24 PROSPECTIVE JUROR SHELTON: I think
25 so, yes.

1 MR. TIEGER: Nothing in your
2 background or any of the things we talked
3 about that would give you any concerns or
4 prevent you from doing the right thing?

5 PROSPECTIVE JUROR SHELTON: No.

6 MR. TIEGER: You're with, is it
7 Cognis?

8 PROSPECTIVE JUROR SHELTON: Cognis
9 Corporation. It's a chemical company
10 here in town. Recently, it was acquired
11 by BASF, so there is some transition
12 stuff going on at work now, so...

13 THE COURT: What did you say? You
14 are with? You have been what, please?

15 PROSPECTIVE JUROR SHELTON: Cognis
16 Corporation is where I work. We were
17 recently acquired.

18 THE COURT: Okay. Acquired by
19 BASF?

20 PROSPECTIVE JUROR SHELTON: Yes.

21 MR. TIEGER: What type of company
22 is BASF?

23 PROSPECTIVE JUROR SHELTON: It's
24 the largest chemical company in the
25 world.

1 MR. TIEGER: So I guess it's not a
2 bad thing to get acquired by them.

3 PROSPECTIVE JUROR SHELTON: Well,
4 for the people here in Cincinnati it
5 could be a bad thing. Job eliminations
6 and whatnot.

7 MR. TIEGER: And when did you get
8 taken over by BASF?

9 PROSPECTIVE JUROR SHELTON: It was
10 last month, the transition period will go
11 through this year.

12 MR. TIEGER: What type of things do
13 you do at that company? Logistics?

14 PROSPECTIVE JUROR SHELTON: I do
15 logistics, so, you know, coordinating
16 trucks and railcars and material from
17 customers to our plants and visa-versa.
18 Just making sure the products are at the
19 right place at the right time.

20 MR. TIEGER: And so you would be --
21 they're volatile type of things,
22 dangerous maybe type of things?

23 PROSPECTIVE JUROR SHELTON: Yes,
24 hazardous materials.

25 MR. TIEGER: And you're there to

1 make sure that it all gets where it is
2 and the right way, the right time and all
3 that?

4 PROSPECTIVE JUROR SHELTON: At the
5 right cost.

6 THE COURT: Right cost.

7 MR. TIEGER: Do you supervise
8 anybody, or do you work with the team at
9 all?

10 PROSPECTIVE JUROR SHELTON: We have
11 a team of distribution department in
12 Cincinnati, so I don't personally
13 supervise anybody.

14 MR. TIEGER: Do you enjoy working?

15 PROSPECTIVE JUROR SHELTON: Yes.

16 MR. TIEGER: And none of the
17 other -- you have never sat on a jury at
18 all?

19 PROSPECTIVE JUROR SHELTON: No.

20 MR. TIEGER: Victim of a crime?

21 PROSPECTIVE JUROR SHELTON: No.

22 MR. TIEGER: Thankfully, I guess
23 that hasn't affected you at all. Okay.
24 Thank you, Mr. Shelton. Pass for cause,
25 Judge.

1 THE COURT: All right. You may
2 continue. Defense?

3 MS. WILLIAMS: Good morning,
4 Mr. Shelton. I see you came from
5 Tennessee.

6 PROSPECTIVE JUROR SHELTON: Yes.

7 MS. WILLIAMS: Looks like three
8 years ago.

9 PROSPECTIVE JUROR SHELTON: Yes.

10 MS. WILLIAMS: I also see you got a
11 Beckley. I assume that's a son.

12 PROSPECTIVE JUROR SHELTON: That's
13 a daughter.

14 MS. WILLIAMS: I'm sorry. I kind
15 of like that name. When you moved up
16 here three years ago, I see your daughter
17 is three, was that when she was born or
18 for a job?

19 PROSPECTIVE JUROR SHELTON: Shortly
20 after, to be closer to family up here in
21 Cincinnati.

22 MS. WILLIAMS: Okay. And help out?

23 PROSPECTIVE JUROR SHELTON: Yes.

24 MS. WILLIAMS: Again, I notice when
25 you put: Did you think you would be a

1 good juror? You kind of had a question
2 about whether or not you would make a
3 good juror, and you now think that you
4 would make a good juror. You would be
5 fair, you said.

6 PROSPECTIVE JUROR SHELTON: I think
7 so.

8 MS. WILLIAMS: Okay. I see you're
9 married to Julia. What does she do for a
10 living?

11 PROSPECTIVE JUROR SHELTON: She was
12 a school teacher, but now she's a
13 stay-at-home mother.

14 MS. WILLIAMS: Okay. What school
15 did she teach at?

16 PROSPECTIVE JUROR SHELTON: Back in
17 Memphis.

18 MS. WILLIAMS: So she didn't teach
19 here locally or anything? No further
20 questions. Pass for cause.

21 THE COURT: Thank you very much.
22 And, Counsel, you want a moment before
23 you exercise the last peremptory
24 challenge on that side? On each side
25 actually. No, that's not correct. It

1 will be the third one of the defendant.

2 (The following transpired at
3 sidebar as follows:)

4 THE COURT: Okay.

5 MR. WHALEN: Number 7. Mr. Powers.
6 Number 7.

7 THE COURT: Okay. All right.
8 Thank you. And that's your fourth.

9 MR. TIEGER: We are done.

10 THE COURT: You're done.

11 MR. TIEGER: Alternates. Judge, as
12 far as the alternates, Judge, we have
13 assuming --

14 THE COURT: Okay. We also have to
15 replace Mr. Sheffield, because he said --

16 MR. TIEGER: He's gone.

17 THE COURT: We already let him go.

18 MR. TIEGER: He left. We bumped
19 him Monday.

20 THE COURT: Okay. I did have "for
21 cause" written here. Okay. So he's
22 already gone.

23 MR. TIEGER: So we would have one,
24 two, three, four. We would have five
25 jurors left.

1 THE COURT: Uh-huh.

2 MR. TIEGER: And if you want to
3 keep three alternates, we each have two
4 bumps which is going to be a problem.

5 THE COURT: Yeah, if you use them.

6 MR. TIEGER: Because we only have
7 one.

8 THE COURT: Then we got to start
9 over, or can bring --

10 MR. WHALEN: Seth and I discussed
11 that, we don't want to start over.

12 MR. TIEGER: No.

13 THE COURT: Have one exercise if
14 you -- that's up to you to exercise one
15 each.

16 MR. TIEGER: I mean --

17 MR. WHALEN: I have got a question.
18 We are going to pick Prospective Juror
19 Number A and Number B, if he uses A as a
20 peremptory, does he have to use A or can
21 he use it for B also?

22 THE COURT: Either one.

23 MR. TIEGER: My understanding that
24 A and B -- A or B. But then if I bump A,
25 B would move up to A spot. C would bump

1 to B. One would move up. So, for
2 instance, C would not go into A's spot.

3 MR. WHALEN: Okay.

4 THE COURT: It just stays there.
5 So if you bump B, A remains.

6 MR. TIEGER: A remains. But if I
7 bump A, C would -- B would move up and C
8 would move to B, I think. What are your
9 thoughts on how many -- just if we have
10 to change that spot, one is two, three,
11 four, five.

12 MS. WILLIAMS: So three would give
13 us two bumps. One bump.

14 MR. TIEGER: Two bumps each, I
15 guess, depending if we all take them.

16 THE COURT: If you can do one and
17 he can do one and still have enough
18 people left.

19 MS. SHANAHAN: We'll still have
20 enough left.

21 MR. TIEGER: Yeah.

22 MR. WHALEN: Unless somebody goes
23 for cause.

24 MR. TIEGER: If we bring three up
25 and nobody bumps anybody, and those

1 are -- we each bump one, I think we are
2 good. But if we start bumping two, then
3 it's going to be a problem.

4 THE COURT: We can't do that,
5 right, so just --

6 MR. TIEGER: So just go with two
7 alternates.

8 MR. WHALEN: One alternate each.
9 what they are saying, still go with three
10 alternates, only get one bump. Is that
11 what you're saying?

12 MS. SHANAHAN: Only get one bump,
13 Bill.

14 THE COURT: You agree?

15 MR. TIEGER: Is that what we are
16 talking about? I didn't catch that.

17 THE COURT: One.

18 MS. WILLIAMS: I think we are
19 talking we would receive one alternate,
20 like if someone gets sick or doesn't come
21 in, weather.

22 THE COURT: Each of you would
23 exercise one preemptory challenge for the
24 alternate each.

25 MR. TIEGER: Is that what you said,

1 Bill?

2 MS. SHANAHAN: And still end up
3 with three names. We will still have
4 three alternates.

5 MR. WHALEN: You're saying bring up
6 three alternates and we each only get one
7 bump.

8 THE COURT: Yes.

9 MS. SHANAHAN: Correct. Which is
10 not the norm. Normally we would each get
11 two.

12 MR. WHALEN: We can do that.

13 MS. SHANAHAN: We can do that or
14 have to start over.

15 THE COURT: Yeah, we are going to
16 bring up three alternates at the same
17 time and you guys make your choice. One
18 each.

19 MR. WHALEN: Can I think about that
20 for a minute?

21 MR. TIEGER: Sure.

22 THE COURT: Okay. How long is a
23 minute, because I don't want to, because
24 otherwise --

25 MR. TIEGER: Maybe review the names

1 and decide in a minute. I know I would
2 like to look.

3 THE COURT: We are going to take a
4 little recess. So after you do your --
5 you're going to do that now and we'll
6 take a recess. You're going to exercise
7 your challenge and we'll take a recess,
8 let them leave and have ten minutes.

9 MR. TIEGER: We have to fully
10 examine.

11 MR. WHALEN: You got voir dire.

12 MR. TIEGER: Unless it's for cause.
13 Why don't we do it, then take a break?

14 THE COURT: Exercise your fourth,
15 take a break.

16 MR. TIEGER: Yeah.

17 (Sidebar concluded.)

18 THE COURT: At this time we are
19 back in session, and the Court would like
20 to thank and excuse Mr. Powers, Juror
21 Number -- seated in Number 7. Thank you,
22 sir, for your participation. I hope you
23 do have an opportunity to serve and I
24 hope this was a rewarding experience so
25 far.

1 PROSPECTIVE JUROR POWERS: Yes,
2 ma'am. Thank you.

3 (Prospective Juror Powers excused.)

4 THE COURT: And I would like to ask
5 for Jerry Drury -- Edward Cisko, Number
6 24, Mr. Edward Cisko, please come forward
7 and have a seat in Number 7.

8 I hear a cell phone that shouldn't
9 be in the room or on at all. So whoever
10 that is, you cannot have a cell phone on
11 or in use in this courtroom.

12 All right. You may continue for
13 cause of Mr. Cisko.

14 MR. TIEGER: Okay. Hello, Mr.
15 Cisko.

16 PROSPECTIVE JUROR CISKO: Hello.

17 MR. TIEGER: Unless you tell us you
18 can't be fair, everybody has excused
19 everybody they can, so, basically, do you
20 think you can be a fair juror in this
21 case?

22 PROSPECTIVE JUROR CISKO: Yes, I
23 can.

24 MR. TIEGER: Is there anything that
25 anybody has talked about that would cause

1 you to think you couldn't be fair to Ms.
2 Shanahan or myself or Mr. Jordan?

3 PROSPECTIVE JUROR CISKO: No, there
4 is not.

5 MR. TIEGER: And all the facts that
6 we have talked about, you're okay with
7 everything that has been discussed?

8 PROSPECTIVE JUROR CISKO: Yes.

9 MR. TIEGER: Okay. Thank you,
10 Mr. Cisko. Pass for cause, Judge.

11 THE COURT: Mr. Whalen?

12 MS. WILLIAMS: I see -- Mr. Cisko,
13 I see that you're a landscape foreman.

14 PROSPECTIVE JUROR CISKO: Yes,
15 that's correct.

16 MS. WILLIAMS: What does that
17 entail?

18 PROSPECTIVE JUROR CISKO: Once a
19 salesman sells a job to the customer, I
20 get it from there and set it up.

21 MS. WILLIAMS: So you actually go
22 out and do the planning and everything?

23 PROSPECTIVE JUROR CISKO: Yes. A
24 crew does, yes.

25 MS. WILLIAMS: That sounds

1 interesting. And your wife is retired?

2 PROSPECTIVE JUROR CISKO: Yes, she
3 is.

4 MS. WILLIAMS: You listed that your
5 father is retired. Does he live with you
6 or --

7 PROSPECTIVE JUROR CISKO: No, he
8 doesn't, no.

9 MS. WILLIAMS: Okay. And you have
10 lived in Hamilton County your entire
11 life?

12 PROSPECTIVE JUROR CISKO: That's
13 correct, Judge.

14 MS. WILLIAMS: Okay. No further
15 questions. We pass for cause, Your
16 Honor.

17 THE COURT: Thank you very much.
18 We now pass for cause. At this time we
19 are going to take a brief recess while
20 the parties do talk about the
21 alternatives who will be placed.

22 So at this time I'm going to allow
23 you to get up and leave the courtroom,
24 and remember the admonitions that you
25 cannot discuss this case among

1 yourselves. Do not form an opinion on
2 this matter. Do not permit anyone to
3 discuss it with you or in your presence.
4 And I'll remind you of these instructions
5 again at each recess, but you may rise
6 for the jury. We are going to take about
7 a ten-minute break.

8 (The jury leaving the courtroom at
9 12:17 p.m.)

10 THE COURT: Counsel, just for a
11 point of procedure. They're going to be
12 getting a view before they have heard all
13 my instructions, because giving
14 instructions is going to take ten to 15
15 minutes, so they won't have a lunch is
16 what I'm kind of getting around to.

17 MS. SHANAHAN: I mean, the bus is
18 paid for, Judge. I mean, if we --

19 THE COURT: I don't have to give
20 instructions. I can just tell them what
21 they're getting ready to do without the
22 rest of the jury instructions. Separate
23 them. And so I was just asking if you
24 mind if I separate the jury -- if I just
25 read to them what is getting ready to

1 happen for the jury view. I'll do all
2 the rest of it tomorrow, the instructions
3 and opening statements.

4 MR. TIEGER: That sounds -- the
5 preliminary instructions, Judge, you were
6 talking about?

7 THE COURT: Yeah, the preliminary
8 instructions. They have heard some of
9 that already.

10 MS. SHANAHAN: I guess I
11 misunderstood what you meant.

12 THE COURT: If you think it's all
13 right to skip that, I'll go right into
14 what a jury view is.

15 MR. TIEGER: Sure.

16 THE COURT: Okay. Lunch recess,
17 jury view and then they're excused for
18 the day.

19 MR. TIEGER: When Bill gets back,
20 go through.

21 THE COURT: Ms. Williams, can we
22 interrupt you for just one second?
23 Remember where you were, please.

24 MS. WILLIAMS: Yes.

25 THE COURT: Because of timing, I

1 would like to -- do you object if I give
2 the preliminary instructions tomorrow
3 instead of now, because if I do it now
4 it's another 20 minutes. I am going to
5 tell them -- I will give the instruction
6 on what the jury view is, and then
7 they're going to go to lunch, and they're
8 going to come back for the jury view and
9 then that's going to be it for the day.

10 MS. WILLIAMS: That's fine.

11 THE COURT: Yeah. Okay. Is the
12 defendant going to attend the jury view?
13 No, he waived that right yesterday; is
14 that correct?

15 MR. TIEGER: He waived that
16 yesterday, Judge. Judge, I have got no
17 problem with the jury -- if your excused
18 basically from the bus instead of coming
19 back up and gathering in the courtroom,
20 there is no reason.

21 THE COURT: Yes, they are excused
22 from the bus. I was getting ready to say
23 I don't want them to come back up here.
24 Once they get off the bus, just tell them
25 what they do in terms of being excused

1 for the day. I don't think they go to
2 the Jury Commissioner. They are my jury
3 now, just go home.

4 MR. TIEGER: Right. And I think
5 they report to your jury room.

6 THE COURT: They do need to know
7 what time we're starting tomorrow. I'll
8 make it 10:00 again. Is that all right?

9 MR. TIEGER: Judge, I think Ms.
10 Shanahan has a trial.

11 THE COURT: When are you starting
12 tomorrow, at what time?

13 MS. SHANAHAN: 9:00 a.m.

14 THE COURT: When would you like
15 to -- I want to tell the jury when they
16 need to come in here.

17 MS. SHANAHAN: Yes, ma'am. Let me
18 call Judge Kubicki and ask what time they
19 think we can get our bench trial
20 underway.

21 MR. TIEGER: And, Judge, maybe
22 if -- going back to today, if the Court
23 would give them their admonishments maybe
24 prior to the jury view and that way they
25 will know for the day.

1 THE COURT: I just gave it to them
2 again. You want the whole page read?

3 MR. TIEGER: No, no. I think just
4 to say remind you.

5 THE COURT: Yes, which I did just
6 now, but I will do it again.

7 MR. TIEGER: Yeah.

8 THE COURT: Okay. And we are going
9 to tell them -- I have several things to
10 tell them because they need to know what
11 time to report. They get to sleep in.

12 MR. TIEGER: I guess they would
13 need to know that we're not gonna cut
14 them loose for lunch tomorrow. They're
15 going to have to come in and be fed and
16 be ready to start.

17 THE COURT: Right.

18 MS. SHANAHAN: Judge, I believe if
19 we said 1:00, that would be very safe, if
20 that's acceptable with the Court. They
21 are not answering but I know that his
22 docket moves pretty quick.

23 THE COURT: I was thinking one,
24 noon, and they can just wait until one,
25 you know, because you might get done

1 early. Do you think one is more likely
2 to be --

3 MR. TIEGER: Or we can say 12:30.

4 THE COURT: All right. We'll say
5 12:30. How about that?

6 MR. TIEGER: I know about the time
7 we order the defendant and they have to
8 be together as a group, then we have to
9 order him and so it does take a process,
10 yes.

11 THE COURT: So by 1:00 we can
12 actually have testimony going on.

13 MS. SHANAHAN: Yes, ma'am.

14 THE COURT: Get a nice four hours
15 in, three or four hours in.

16 MR. TIEGER: Yes.

17 THE COURT: Did we waive the right
18 for the defendant to attend the jury
19 view?

20 Counsel, have you decided -- you
21 waive it?

22 MS. WILLIAMS: Yes.

23 THE COURT: Okay. You have -- are
24 the attorneys going to attend the jury
25 view, or are you just going to give

1 instructions? You're going with them?

2 MS. SHANAHAN: Yes, ma'am.

3 THE COURT: And you're going with
4 them?

5 MR. WHALEN: Yes.

6 THE COURT: Okay. Then, so you
7 have decided what you're going to --
8 because once I bring them in, they're
9 going to be going to lunch and meeting at
10 the bus, wherever you tell them to meet.

11 MR. BRENNER: Okay. They'll be
12 excused and come back.

13 THE COURT: Are you going to have
14 something in writing about what you want
15 them to observe to tell?

16 MR. TIEGER: We will get that to
17 Mr. Brenner before the view.

18 THE COURT: All right then, I'm
19 not --

20 MR. TIEGER: Judge, maybe it would
21 be easier if -- I don't know how Mr.
22 Brenner planned it, to have the jury
23 return here a few minutes till two, and
24 then Mr. Brenner could walk them as a
25 group to the bus instead of meeting in

1 the lobby.

2 MR. BRENNER: I think that would be
3 easiest that way. I don't know all the
4 faces yet.

5 THE COURT: You want them in here?
6 Okay. That's fine. Ready to bring in
7 the jury?

8 MR. WHALEN: Yes.

9 THE COURT: Are the alternates --
10 here's what we're doing, Scott, we are
11 going to do something different. We are
12 only bringing in the alternatives --
13 alternates. Here they are. I'm going to
14 put a check by their name. Everybody
15 else has recess.

16 MR. BRENNER: So they are the last
17 five names on there.

18 (The prospective alternates
19 entering the courtroom at 12:34 p.m.)

20 MR. BRENNER: All rise for the
21 jury.

22 THE COURT: We are now in the
23 process of selecting three alternates and
24 all of you are going to be questioned and
25 each side will have one challenge to

1 remove a juror, and State may proceed.

2 MR. TIEGER: Thank you, Judge. We
3 are, as I said, very close to getting to
4 the end of this, and then finally the
5 trial will begin. And basically the 12
6 people that are going to be on the jury
7 have already been chosen. And you, if
8 you're chosen, would be what's called
9 alternates. Have you heard of that
10 before?

11 Basically what that means is that
12 if one of the member of the panel, for
13 whatever reasons, gets called away, gets
14 the flu, can't attend any more, you would
15 be plugged in for them and you would be a
16 regular juror and deliberate at that
17 point.

18 So what we would be asking you to
19 do is, you would have to -- it's a hard
20 job, because probably what happens is you
21 listen to all the testimony, you have to
22 be extremely attentive and act as if, you
23 know, you are going to be a juror.
24 Probably what usually happens is that at
25 the end of the trial, all the jurors have

1 been here and are ready and the Judge
2 will simply say thank you for your time,
3 you're excused. It can be frustrating, I
4 know, because at the end of that period
5 of time, I'm sure you would be ready to
6 deliberate. But knowing all that, can
7 all of sit in an alternate's role?

8 PROSPECTIVE ALTERNATES: Yes.

9 MR. TIEGER: Is anybody -- I can
10 kind of do this as a group between
11 myself, Mr. Whalen, Ms. Williams. There
12 have been a lot of issues talked about, a
13 lot of things brought up, would anybody
14 like to discuss any of that? Any reason
15 that they would like to comment on
16 anything? The nature of the case, the
17 type of testimony, the fact that it's a
18 homicide, that type of thing, the nature
19 of the people that are going to testify,
20 is everybody okay with that?

21 PROSPECTIVE ALTERNATES: Yes.

22 MR. TIEGER: Okay. Good with that.
23 Mr. Drury?

24 PROSPECTIVE ALTERNATE DRURY: Yes.

25 MR. TIEGER: You're in graphic art?

1 PROSPECTIVE ALTERNATE DRURY: Yes,
2 I am.

3 MR. TIEGER: And what type of thing
4 do you do?

5 PROSPECTIVE ALTERNATE DRURY: I'm
6 really quite along the same line of
7 business with Mr. Ricketts. I have been
8 a PPM, I build art, I retouch, adjust
9 color. A PPM is a production manager who
10 basically facilitates between P&G, Landor,
11 studio and printer to build technical
12 information correct, just to get it all
13 correct and through the pipeline. But I
14 also do color correction and retouch
15 images to make them look bright to
16 everyone who goes out and buys the
17 product.

18 MR. TIEGER: Would there be a
19 certain -- which products do you work
20 with, or would people come to your
21 company to design certain things whether
22 it be like Wendy's, do you do like food?

23 PROSPECTIVE ALTERNATE DRURY: Mostly
24 Procter & Gamble.

25 MR. TIEGER: Okay. So it's

1 whatever, Charmin.

2 PROSPECTIVE ALTERNATE DRURY:
3 Charmin, Bounty, Tide, all the proper
4 name appliances.

5 MR. TIEGER: I'm sure that's enough
6 to keep you busy.

7 PROSPECTIVE ALTERNATE DRURY: Yes,
8 it is.

9 MR. TIEGER: And how long have you
10 been doing that for?

11 PROSPECTIVE ALTERNATE DRURY: I
12 have been doing that for 30 years.

13 MR. TIEGER: And it looks like that
14 you or your, is it wife, was a victim of
15 a robbery?

16 PROSPECTIVE ALTERNATE DRURY: Yes,
17 prior to our marriage. Her daughter had
18 a party when she was at work. She worked
19 an evening shift and it was the people
20 that her daughter had invited to the
21 party, took some of her belongings.

22 MR. TIEGER: Okay. There was no
23 weapon involved, correct?

24 PROSPECTIVE ALTERNATE DRURY: No.

25 MR. TIEGER: And you kind of went

1 through the same type of thing, but it
2 never went to court around 20 years ago?

3 PROSPECTIVE ALTERNATE DRURY: Yeah.
4 It was in Butler County. And basically
5 they seated us, and we were seated for
6 maybe half an hour, 45 minutes, and then
7 the prosecuting attorney came out and
8 told us that we had done our job, that
9 just the defendant seeing our presence
10 made a decision to go ahead and bargain,
11 so he didn't have to go to court.

12 MR. TIEGER: Okay. And it looks
13 like you have been in Hamilton County a
14 couple years. You came from Butler
15 County?

16 PROSPECTIVE ALTERNATE DRURY: Yes.

17 MR. TIEGER: What made you move?

18 PROSPECTIVE ALTERNATE DRURY: Tired
19 of the commute. I work downtown, so get
20 a little closer.

21 MR. TIEGER: Okay. Are you glad
22 you did it?

23 PROSPECTIVE ALTERNATE DRURY: Oh,
24 yes.

25 MR. TIEGER: It's hard to move

1 after being in one place so long.

2 PROSPECTIVE ALTERNATE DRURY: Yeah.

3 But that ten-minute drive is so much

4 better than an hour.

5 MR. TIEGER: Yes. Yes. Okay.

6 Thank you, Mr. Drury.

7 PROSPECTIVE ALTERNATE DRURY: You're

8 welcome.

9 MR. TIEGER: Mr. Korb?

10 PROSPECTIVE ALTERNATE KORB: Yes.

11 MR. TIEGER: I see you're retired?

12 PROSPECTIVE ALTERNATE KORB: Yes.

13 MR. TIEGER: What did you do before
14 you were retired?

15 PROSPECTIVE ALTERNATE KORB: Well,
16 I worked with my father and brother in a
17 small injection enrollment company. Just
18 the three us really. We were injection
19 molding and running plastic parts,
20 plastic.

21 MR. TIEGER: Are your -- is it your
22 brother and your --

23 PROSPECTIVE ALTERNATE KORB: My
24 father.

25 MR. TIEGER: Are they both still

1 involved in that company?

2 PROSPECTIVE ALTERNATE KORB: No.
3 My father has left, and actually I left.
4 My brother is down there, and I just
5 simply do sort of the bookkeeping and
6 occasionally run some parts.

7 MR. TIEGER: What is the name of
8 your company?

9 PROSPECTIVE ALTERNATE KORB:
10 Cincinnati Mold.

11 MR. TIEGER: Where is that located?

12 PROSPECTIVE ALTERNATE KORB: Down
13 off Stille Drive off River Road.

14 MR. TIEGER: And what type of
15 products would you make, where would they
16 go once you make them? Would they be for
17 machines?

18 PROSPECTIVE ALTERNATE KORB: Well,
19 people -- whatever somebody needs made
20 out of plastic, we approach to design and
21 manufacture that product.

22 MR. TIEGER: A specialized part to
23 fit in a certain product?

24 PROSPECTIVE ALTERNATE KORB: Yes,
25 right.

1 MR. TIEGER: Okay. Your degree is
2 in English?

3 PROSPECTIVE ALTERNATE KORB: Yes.

4 MR. TIEGER: That was something
5 that you enjoyed back in college and
6 still do. Do you still read or do things
7 like that?

8 PROSPECTIVE ALTERNATE KORB: Well,
9 I read a lot, but my English degree never
10 did anything for me.

11 MR. TIEGER: Okay. And so you're
12 still involved in the family company to a
13 degree now even though you're retired
14 officially?

15 PROSPECTIVE ALTERNATE KORB: Yes.

16 MR. TIEGER: And it was marked on
17 the form: Do you think you would be a
18 good juror? I think you put a question
19 mark.

20 PROSPECTIVE ALTERNATE KORB: Right.
21 I assume every citizen would be. I guess
22 I don't have qualifications.

23 MR. TIEGER: And now having been
24 through this, do you think you would be?

25 PROSPECTIVE ALTERNATE KORB: Sure.

1 MR. TIEGER: Do you have a family,
2 Mr. Korb?

3 PROSPECTIVE ALTERNATE KORB: I have
4 a wife and daughter.

5 MR. TIEGER: Because, again, that
6 wasn't on here, and I apologize for
7 prying about that.

8 PROSPECTIVE ALTERNATE KORB: Okay.

9 MR. TIEGER: Are they here locally,
10 too?

11 PROSPECTIVE ALTERNATE KORB: Yes.

12 MR. TIEGER: Okay. Does your wife
13 work or is she retired?

14 PROSPECTIVE ALTERNATE KORB: She's
15 retired.

16 MR. TIEGER: Okay. But she worked
17 for the company as well?

18 PROSPECTIVE ALTERNATE KORB: No,
19 she didn't. She was a teacher for a
20 number of years.

21 MR. TIEGER: Thank you, Mr. Korb.

22 Mr. Cross, you're with the Parks.
23 And what do you do for the Parks?

24 PROSPECTIVE ALTERNATE CROSS:
25 Operation supervisor.

1 MR. TIEGER: And that's for the
2 city?

3 PROSPECTIVE ALTERNATE CROSS: Yes.
4 It's city.

5 MR. TIEGER: What type of things
6 would you -- would that be like Burnet
7 Woods?

8 PROSPECTIVE ALTERNATE CROSS: Yes.

9 MR. TIEGER: Eden Park, or any of
10 the local parks?

11 PROSPECTIVE ALTERNATE CROSS: I
12 supervise the west district which is Mt.
13 Airy.

14 MR. TIEGER: Okay. Do you guys get
15 involved in the like planning between
16 like the Boulevards, like on Central
17 Parkway, the tall grasses, that type of
18 thing?

19 PROSPECTIVE ALTERNATE CROSS: Yeah.

20 MR. TIEGER: I know down in
21 Eggleston there is a lot, down Central
22 Parkway there is a lot.

23 PROSPECTIVE ALTERNATE CROSS: (Nods
24 affirmatively.)

25 MR. TIEGER: Daffodils all over.

1 Is that the type of stuff that you do?

2 PROSPECTIVE ALTERNATE CROSS: I'm
3 not out there planting anymore. I think
4 I helped assist them, but I'm pretty much
5 making sure the equipment works and get
6 the people and equipment involved.

7 THE COURT: Can you keep your voice
8 you sir, please?

9 PROSPECTIVE ALTERNATE CROSS: Sure.

10 THE COURT: Stage voice. There is
11 lots of stages there.

12 MR. TIEGER: How many people do you
13 work with?

14 PROSPECTIVE ALTERNATE CROSS: I
15 have nine under me. I mean, our district
16 has probably got -- we have 19 in our
17 district. There is three districts.

18 MR. TIEGER: Okay. And how long
19 have you been with the City?

20 PROSPECTIVE ALTERNATE CROSS:
21 Almost 21.

22 MR. TIEGER: And there's a lot in
23 the news about the City these days. Are
24 you involved at all in any of the
25 politics or anything like that?

1 PROSPECTIVE ALTERNATE CROSS: No,
2 unh-unh.

3 MR. TIEGER: Just let them fight it
4 down at City Hall?

5 PROSPECTIVE ALTERNATE CROSS: We've
6 got a good director, and he's, you know,
7 we're -- we have all got our jobs at
8 least this year. We heard that at least.
9 We don't know what we're merging with, so
10 there is going to be some changes but
11 yeah.

12 MR. TIEGER: That's got to be tough
13 to go through every December.

14 PROSPECTIVE ALTERNATE CROSS: Yeah.

15 MR. TIEGER: Late December and all
16 the sudden you hear in the news that none
17 of that is figured out yet.

18 PROSPECTIVE ALTERNATE CROSS: Yeah.
19 They want managed competition. It's been
20 a good job. I enjoy my work.

21 MR. TIEGER: And it looks like you
22 have some prior jury service in 2005.

23 PROSPECTIVE ALTERNATE CROSS: I was
24 trying to think if it was 2005. Yeah, I
25 was picked for a jury for a case -- it

1 was a criminal case. It was back when UC
2 students were involved with the horse. I
3 remember when Art Long and Danny Fortson
4 hit the police horse.

5 MR. TIEGER: And that was what you
6 were --

7 PROSPECTIVE ALTERNATE CROSS: Judge
8 Burlew was the defense attorney.

9 MR. TIEGER: Okay.

10 PROSPECTIVE ALTERNATE CROSS: Ken
11 Lawson, yeah.

12 MR. TIEGER: Interesting, I'm sure.

13 PROSPECTIVE ALTERNATE CROSS: Oh,
14 yeah.

15 MR. TIEGER: Okay. Thank you,
16 Mr. Cross. Ms. Kellogg?

17 PROSPECTIVE JUROR KELLOGG: Yes.

18 MR. TIEGER: You're at US Bank?

19 PROSPECTIVE JUROR KELLOGG: That is
20 correct.

21 MR. TIEGER: What do you do for US
22 Bank?

23 PROSPECTIVE JUROR KELLOGG:
24 Personal banker.

25 MR. TIEGER: What does that mean?

1 PROSPECTIVE JUROR KELLOGG:

2 Personal banker means that you manage the
3 customer's account.

4 MR. WHALEN: Ma'am, keep your voice
5 up, please.

6 PROSPECTIVE JUROR KELLOGG: I
7 apologize. Credit lines, checking
8 accounts, and basically applications is
9 what I do.

10 MR. TIEGER: Do you work in a
11 branch?

12 PROSPECTIVE JUROR KELLOGG: No, I
13 actually work at the call center.

14 MR. TIEGER: I'm sorry?

15 PROSPECTIVE JUROR KELLOGG: I take
16 inbound calls, so I guess a call center.

17 MR. TIEGER: Is that out on Red
18 Bank Road there?

19 PROSPECTIVE JUROR KELLOGG: Yes.

20 MR. TIEGER: That big building?

21 PROSPECTIVE JUROR KELLOGG: Yes,
22 sir.

23 MR. TIEGER: How long have you been
24 with US Bank?

25 PROSPECTIVE JUROR KELLOGG: I have

1 been with US Bank probably about eight
2 months now.

3 MR. TIEGER: Okay. What did you do
4 before that?

5 PROSPECTIVE JUROR KELLOGG: I
6 actually worked for Avon Products, which
7 I did the same thing, service customers,
8 inbound calls.

9 MR. TIEGER: You had marked that, I
10 guess, a member of your family has been
11 charged with a weapon possession?

12 PROSPECTIVE JUROR KELLOGG: Yes,
13 sir.

14 MR. TIEGER: Who is that?

15 PROSPECTIVE JUROR KELLOGG: His
16 name is Rasheed Mohammed. It's a
17 situation -- I'm not sure about the year,
18 maybe about '06 or '07. It was a
19 situation at a gas station where someone
20 had came up behind his vehicle and
21 basically tried to attack him, and he had
22 possession. However, I didn't follow the
23 trial so I don't exactly know the
24 situation --

25 MR. TIEGER: Okay. And is

1 Mr. Mohammed a friend or relative of
2 yours?

3 PROSPECTIVE JUROR KELLOGG: He's my
4 cousin.

5 MR. TIEGER: Okay. And then he was
6 at a gas station, somebody accosted him?

7 PROSPECTIVE JUROR KELLOGG: Yes,
8 sir.

9 MR. TIEGER: He had a weapon in his
10 possession that he wasn't supposed to
11 have?

12 PROSPECTIVE JUROR KELLOGG: Yes,
13 sir.

14 MR. TIEGER: And then he got
15 charged with having that weapon which
16 wouldn't have happened but for somebody
17 attacking him first?

18 PROSPECTIVE JUROR KELLOGG: Yes,
19 sir.

20 MR. TIEGER: And do you know what
21 happened to him?

22 PROSPECTIVE JUROR KELLOGG: No, I
23 didn't follow it because I didn't really
24 get into that. I didn't really care, to
25 be honest.

1 MR. TIEGER: Do you know if he was
2 convicted or not?

3 PROSPECTIVE JUROR KELLOGG: No,
4 he's not serving any time or anything.

5 MR. TIEGER: Do you know if he
6 might be on probation?

7 PROSPECTIVE JUROR KELLOGG: To my
8 understanding, I'm not really sure. As I
9 said, I didn't really follow it, I just
10 know that it was a situation he put
11 himself in. It was unnecessary.

12 MR. TIEGER: In what way? What do
13 you mean?

14 PROSPECTIVE JUROR KELLOGG: Meaning
15 if he didn't have possession or anything
16 like that, then he wouldn't have to worry
17 about having to go to jail, or having to,
18 you know, basically go through any type
19 of trial, so I don't feel, you know, any
20 way about it.

21 MR. TIEGER: So your thoughts were
22 that if he wouldn't have had the gun in
23 the first place, none of this would have
24 happened?

25 PROSPECTIVE JUROR KELLOGG: Right.

1 If he wouldn't have had the gun, then it
2 wouldn't have happened. But by having
3 the gun, I can see where you try to
4 defend yourself, but I just think the
5 whole scene stuff was unnecessary.

6 MR. TIEGER: Okay. And then it
7 happened how long ago? A number of years
8 ago?

9 PROSPECTIVE JUROR KELLOGG: I
10 believe '06 or '07.

11 MR. TIEGER: So he's not really
12 close?

13 PROSPECTIVE JUROR KELLOGG: No. I
14 mean, he's my first cousin, but you have
15 distant cousins that you don't talk to,
16 and he's one of them.

17 MR. TIEGER: Okay. Thank you,
18 Ms. Kellogg. Let's see, Mr. Decenso.

19 PROSPECTIVE ALTERNATE DECENSO: Yes.

20 MR. TIEGER: Let's see, you are
21 with the Cincinnati Convention Business
22 Bureau?

23 PROSPECTIVE ALTERNATE DECENSO: Yes.

24 MR. TIEGER: What type of things do
25 you do for them?

1 PROSPECTIVE ALTERNATE DECENSO: I'm
2 an intern so I'm only part-time staff
3 because I'm finishing school at UC. So
4 right now what I'm involved with is
5 mostly research, to support the sales
6 staff. I might do some like low-level
7 accounts, small meetings just to get the
8 experience, the sales experience.

9 MR. TIEGER: And UC is in
10 session -- you're going to UC?

11 PROSPECTIVE ALTERNATE DECENSO:
12 Yeah.

13 MR. TIEGER: And they're in session
14 and you're missing classes unless you go
15 to night school?

16 PROSPECTIVE ALTERNATE DECENSO: I'm
17 not really missing classes this quarter,
18 I'm just doing my Capstone, and it's a
19 project that we work on, so we do
20 meetings outside of class time, so class
21 doesn't actually meet.

22 MR. TIEGER: Okay. Is there a
23 program that you're in? Is it called
24 hospitality management? Is that your --

25 PROSPECTIVE ALTERNATE DECENSO:

1 That's my degree program.

2 MR. TIEGER: Okay. And when are
3 you due to graduate?

4 PROSPECTIVE ALTERNATE DECENSO:
5 June.

6 MR. TIEGER: Is it a four-year
7 program or is it a --

8 PROSPECTIVE ALTERNATE DECENSO: It's
9 a five-year program. They just changed
10 it because we switched over to the
11 culture business, so I think it's now
12 four years and a quarter. I'll complete
13 it in four years because I had some
14 credits in high school from the College
15 of Charleston.

16 MR. TIEGER: Okay. So no problem
17 worrying about missing classes at all?

18 PROSPECTIVE ALTERNATE DECENSO:
19 Unless this lasts a couple of months.

20 MR. TIEGER: No. This is not a
21 California or LA trial at all. You don't
22 have to worry about that. The
23 misdemeanor, OVI, was that you?

24 PROSPECTIVE ALTERNATE DECENSO: Yes.

25 MR. TIEGER: Tell me a little bit

1 about that.

2 PROSPECTIVE ALTERNATE DECENSO: The
3 stop was about a year ago and I pled no
4 contest.

5 MR. TIEGER: Who stopped you?

6 PROSPECTIVE ALTERNATE DECENSO:
7 Trooper Pavin (phonetic) maybe.

8 MR. TIEGER: Was it in the county
9 somewhere or in the City?

10 PROSPECTIVE ALTERNATE DECENSO:
11 City. So, yeah, I had my -- I didn't go
12 to trial.

13 MR. TIEGER: Did you take a test?
14 Were you over the .08?

15 PROSPECTIVE ALTERNATE DECENSO: No.

16 MR. TIEGER: No accident?

17 PROSPECTIVE ALTERNATE DECENSO: No.

18 MR. TIEGER: Did they treat you
19 fairly?

20 PROSPECTIVE ALTERNATE DECENSO:
21 Uh-huh.

22 MR. TIEGER: And you pled out. Are
23 you done with probation or are you still
24 on?

25 PROSPECTIVE ALTERNATE DECENSO: I'm

1 not reporting, but I think my probation
2 goes through April, so yes.

3 MR. TIEGER: And then do you feel
4 that you were treated fairly by the
5 justice system?

6 PROSPECTIVE ALTERNATE DECENSO: Yes.

7 MR. TIEGER: You were drunk and you
8 were driving drunk and it shouldn't have
9 been, pretty much?

10 PROSPECTIVE ALTERNATE DECENSO:
11 Yeah.

12 MR. TIEGER: Okay. Thanks,
13 Ms. Decenso.

14 Judge, I would pass for cause on
15 all five.

16 THE COURT: Thank you.

17 MS. WILLIAMS: Good morning,
18 everyone.

19 PROSPECTIVE ALTERNATES: Good
20 morning.

21 MS. WILLIAMS: Gosh, I guess it's
22 afternoon now. Again, just to clarify,
23 none of you have any problem from any of
24 the questions you've heard throughout
25 Monday and today, correct?

1 PROSPECTIVE ALTERNATES: No.

2 MS. WILLIAMS: I'll start with you,
3 Mr. Drury. Am I pronouncing that
4 correctly?

5 PROSPECTIVE ALTERNATE DRURY:
6 That's correct.

7 MS. WILLIAMS: All right. On this
8 charge that you served as a juror 20
9 years ago, what type of charge was that?

10 PROSPECTIVE ALTERNATE DRURY: I do
11 not even know or remember. I was seated
12 as -- we sat there for a half hour, 45
13 minutes and told it was over. I didn't
14 know what the case was about.

15 MS. WILLIAMS: It was probably
16 criminal though. You're saying the
17 person saw you?

18 PROSPECTIVE ALTERNATE DRURY: Had
19 the person seated in the office with the
20 door open is what the prosecuting
21 attorney told us and they could see.

22 MS. WILLIAMS: So you didn't hear
23 any evidence?

24 PROSPECTIVE ALTERNATE DRURY: Not
25 at all.

1 MS. WILLIAMS: You mentioned, and I
2 see on your form here, that you and your
3 wife work together?

4 PROSPECTIVE ALTERNATE DRURY: Yes.

5 MR. WHALEN: Are you here in the
6 same company too?

7 PROSPECTIVE ALTERNATE DRURY: Same
8 company.

9 MS. WILLIAMS: Is that how you met?

10 PROSPECTIVE ALTERNATE DRURY: Yes,
11 it is.

12 MS. WILLIAMS: I hear that happens.
13 And, Mr. Korb, you said that you worked
14 with your brother and father at
15 Cincinnati Mold?

16 PROSPECTIVE ALTERNATE KORB: Yes,
17 uh-huh.

18 MS. WILLIAMS: Is that a company
19 you just started?

20 PROSPECTIVE ALTERNATE KORB: Well,
21 they started it about 60 years ago. I
22 previously had worked at Cincinnati
23 Milicron for 29 and a half years.

24 MS. WILLIAMS: That's good.
25 Probably a little more freedom working up

1 there, brother and father.

2 PROSPECTIVE ALTERNATE KORB: A lot
3 more, yes.

4 MS. WILLIAMS: How old is your
5 daughter?

6 PROSPECTIVE ALTERNATE KORB: She's
7 40.

8 MS. WILLIAMS: You have grandkids?

9 PROSPECTIVE ALTERNATE KORB: No, I
10 don't.

11 MS. WILLIAMS: You said you do like
12 to read a lot, just not really magazines.
13 What kind of stuff do you read?

14 PROSPECTIVE ALTERNATE KORB:
15 Everything.

16 THE COURT: Keep your voice up,
17 please, a little bit.

18 PROSPECTIVE ALTERNATE KORB: I'm
19 Currently reading Karen Armstrong's
20 Battle for God, and I love history,
21 science, psychology.

22 MS. WILLIAMS: Okay. And,
23 Mr. Cross, you said you have been with
24 the City for 21 years?

25 PROSPECTIVE ALTERNATE CROSS:

1 Uh-huh.

2 MS. WILLIAMS: In the west
3 district. I'm sure you said that
4 included Mt. Airy, and what else is in
5 that area?

6 PROSPECTIVE ALTERNATE CROSS: The
7 art district. Mt. Echo Park, Saylor
8 Park.

9 MS. WILLIAMS: Okay. I know a
10 little bit about it. And you said now
11 you just more do equipment. Are you a
12 supervisor now?

13 PROSPECTIVE ALTERNATE CROSS: Yeah.

14 MS. WILLIAMS: Okay. I see you've
15 got two kids that are college age. Are
16 they in college? What college do they go
17 to?

18 PROSPECTIVE ALTERNATE CROSS: My
19 daughter is at NKU and my son is at
20 Cincinnati State.

21 MS. WILLIAMS: And on this chart
22 you said it was back in 2005 that you
23 served as a juror?

24 PROSPECTIVE ALTERNATE CROSS: I
25 wish I could be exactly sure. It's been

1 between five and eight years ago.

2 MS. WILLIAMS: Do you know if that
3 was a misdemeanor or a felony charge?

4 PROSPECTIVE ALTERNATE CROSS:
5 striking a police officer. I think
6 that's what they considered that horse
7 they hit.

8 MS. WILLIAMS: Okay. Now, when it
9 has as many people involved, you would
10 think I would remember that part. I was
11 in law school at the time.

12 PROSPECTIVE ALTERNATE CROSS: Yes.

13 MS. WILLIAMS: I don't remember
14 much. You have a close friend that's in
15 law enforcement and you wrote yes, or
16 relative.

17 PROSPECTIVE ALTERNATE CROSS: Yeah,
18 I have several friends in the police,
19 Cincinnati Police.

20 MS. WILLIAMS: In the Cincinnati
21 Police, or in --

22 PROSPECTIVE ALTERNATE CROSS: Just
23 because I'm -- well, my office is right
24 across the parking lot from the park
25 police, so I just come in contact with a

1 lot of those guys on a daily basis. And
2 I just have friends in the sheriff's
3 department.

4 THE COURT: Can you hear?
5 Remember, keep your voices up so she can
6 hear.

7 PROSPECTIVE ALTERNATE CROSS: Yeah.

8 MS. WILLIAMS: You deal with the
9 police then on a daily basis?

10 PROSPECTIVE ALTERNATE CROSS: Not
11 every day, but, you know, I have to
12 report abandoned vehicles, just different
13 things.

14 MS. WILLIAMS: Do you do that to
15 the park police, or to the individual in
16 Cincinnati Police Departments?

17 PROSPECTIVE ALTERNATE CROSS: Park
18 police. Well, yeah, District 5,
19 sometimes we put calls in for dead
20 animals. Different agencies, whether
21 it's highway or all of them.

22 MS. WILLIAMS: Okay. So the people
23 you know, they're friends. Do you have
24 any relatives that are police officers?

25 PROSPECTIVE ALTERNATE CROSS: Um,

1 no.

2 MS. WILLIAMS: Okay. Does your
3 friendship with these police officers,
4 does that sway you one way or another as
5 to whether a police officer would be
6 telling the truth? Are you more inclined
7 to believe police officers?

8 PROSPECTIVE ALTERNATE CROSS: Not
9 necessarily.

10 MS. WILLIAMS: Okay. So you
11 believe that police officers can lie, can
12 make mistakes?

13 PROSPECTIVE ALTERNATE CROSS: Yeah.

14 MS. WILLIAMS: I'm gonna bother
15 you, Ms. Kellogg. You said you have some
16 college. Are you still in college?

17 PROSPECTIVE JUROR KELLOGG:
18 Actually --

19 THE COURT: Ma'am, keep your voice
20 up, please.

21 PROSPECTIVE JUROR KELLOGG: I'm
22 enrolling back into college currently.

23 MS. WILLIAMS: What are you going
24 to be studying?

25 PROSPECTIVE JUROR KELLOGG: Right

1 now I'm on the verge of pursuing
2 cosmetology. Then after that, I'm going
3 to get my RN and then my Master's.

4 MS. WILLIAMS: Okay. So you can
5 hope to be a nurse one day.

6 PROSPECTIVE JUROR KELLOGG: Uh-huh.

7 MS. WILLIAMS: I see that you have
8 one child, a one-year old.

9 PROSPECTIVE JUROR KELLOGG: Yes.

10 MS. WILLIAMS: And that you're a
11 single mother.

12 PROSPECTIVE JUROR KELLOGG: Yes.

13 MS. WILLIAMS: What does your child
14 do while you're -- I'm sorry, while
15 you're at work, daycare or family?

16 PROSPECTIVE JUROR KELLOGG: Daycare.

17 MS. WILLIAMS: Daycare. And, Ms.
18 Decenso, I'm sorry, you are not missing
19 classes. Is it kind of like an online
20 course, or --

21 PROSPECTIVE ALTERNATE DECENSO: No,
22 it's the only course that I'm involved in
23 this quarter at UC. So for this set of
24 ten weeks, I'm just taking my senior
25 project which is more of like

1 independent.

2 MS. WILLIAMS: Kind of outside of
3 classwork?

4 PROSPECTIVE ALTERNATE DECENSO: Yes.

5 MS. WILLIAMS: Okay. I understand.
6 I did a couple of those myself. Okay.
7 And you're not married, have no children
8 or anything?

9 PROSPECTIVE ALTERNATE DECENSO: No.

10 MS. WILLIAMS: Okay. I'll just put
11 this -- and I have asked you, and I'll
12 just put it to all of you, all of you
13 seem to have either positive or neutral
14 feelings towards police officers. Does
15 that incline you to believe police
16 officers more than others, or that they
17 can't make mistakes? Are all of you
18 willing to listen to the evidence and
19 determine, like he said, the credibility?

20 PROSPECTIVE JUROR KELLOGG: Most
21 definitely.

22 PROSPECTIVE ALTERNATE CROSS: Sure.

23 PROSPECTIVE ALTERNATE DRURY: Yes.

24 PROSPECTIVE ALTERNATES: Yes.

25 MS. WILLIAMS: No further

1 questions.

2 THE COURT: You pass for cause?

3 All right. Would you like to discuss
4 your first peremptory challenge?

5 MR. TIEGER: Could I have just a
6 second, Judge?

7 THE COURT: Okay. I'm gonna turn
8 on the white noise machine. You all can
9 talk among yourselves.

10 MR. TIEGER: We are ready, Jude.

11 THE COURT: You ready. All right,
12 Counsel. If you would like to approach.

13 (The following transpired at
14 sidebar as follows:)

15 THE COURT: Do you mind? What I
16 would like to do is, can we just announce
17 both of them at the same time and move
18 on?

19 MR. TIEGER: We are going to waive.

20 THE COURT: You're going to waive?

21 MR. TIEGER: We are.

22 MS. WILLIAMS: Yeah, that's fine.

23 THE COURT: Uh-huh.

24 MS. WILLIAMS: You're waiving?

25 THE COURT: Would you like --

1 MS. WILLIAMS: We are going to
2 knock off Richard Cross.

3 THE COURT: What?

4 MS. WILLIAMS: Richard Cross. So
5 this will leave four.

6 MS. SHANAHAN: The last one goes
7 away.

8 THE COURT: That would leave Drury,
9 Korb and Kellogg; is that correct?

10 MR. TIEGER: Drury, Korb and
11 Kellogg.

12 THE COURT: And going to excuse Mr.
13 Cross. All right. Thank you very much.

14 (Sidebar concluded.)

15 THE COURT: Okay. At this time,
16 thank you very much for your attention,
17 we are going to thank and excuse Number
18 27, Mr. Cross. Our thanks. And thank
19 you for participating, and we hope that
20 you have the experience of serving on a
21 jury. You have done a very good job
22 today in your civic duty.

23 And that also excuses Ms. Amanda
24 Decenso, because we have -- you're the
25 last in line, that's the reason for you.

1 You are thanked and excused also.

2 PROSPECTIVE ALTERNATE DECENSO:

3 Thank you.

4 THE COURT: I want to admonish both
5 of you, since you have heard this portion
6 of this experience, you cannot discuss
7 your -- what your verdict would be or
8 discuss it among yourselves. Thank you.
9 You are excused.

10 (Prospective Alternates Cross and
11 Decenso excused.)

12 THE COURT: And would all three of
13 you come out, because we have to
14 rearrange a few people.

15 The remaining jurors are Jerry
16 Drury, Number 25; Ed Korb, Number 26; and
17 Amanda Decenso, Number 30.

18 MR. TIEGER: Edward Korb and Erika
19 Kellogg would be --

20 THE COURT: Pardon. I can't see
21 very well. What happened? Erika.
22 Number 29, Erika Kellogg. Let me put my
23 glasses back on. All right. You three
24 need to step out of the jury box for the
25 moment until we get everybody seated, and

1 I have to give all of you some new
2 instructions. So we are now ready to
3 bring in the jury.

4 Okay. You may as well -- you can
5 kind of stand right there for a second.
6 You will need to have a seat, because as
7 soon as we get everybody seated, we are
8 going to bring in the jury. You can just
9 sort of stand right there. Thank you.
10 We are kind of rushing, because I would
11 like you to have a decent lunchtime,
12 lunch hour.

13 (The jury joining the alternates at
14 1:03 p.m.)

15 MR. BRENNER: Mr. Drury, if you can
16 have a seat here. Mr. Korb, you can have
17 a seat here. And Ms. Kellogg, I have got
18 this special chair here for you.

19 THE COURT: You may all be seated.
20 We are now at the point where we are
21 going to be going to lunch in a moment.
22 But before we recess for lunch, I want to
23 explain to you what will be happening
24 next. You're going to have a jury view
25 today, which means that you will be taken

1 to the scene involved in this case. You
2 will remain together under the
3 supervision of the bailiff, Scott
4 Brenner, my assistant bailiff, Scott
5 Brenner today until you are excused by
6 him. And that means today after the jury
7 view you are going to be excused for the
8 day and you're not going to be returning
9 here.

10 Counsel and the parties may
11 accompany you, but they may not discuss
12 this case or demonstrate anything
13 relating to it. So they will not be
14 pointing to something or making comments
15 about what you're observing.

16 The bailiff may call to your
17 attention objects requested by counsel,
18 and you won't know whether it's the
19 prosecution or the defense. They will
20 just be pointing out objects for you to
21 look at.

22 What you observe outside this
23 courtroom is not to be considered as
24 evidence, and that's because the scene
25 may have changed slightly since the

1 incident. The evidence of the physical
2 appearance of the scene must come to you
3 from the witness stand, so you will also
4 hear testimony about that.

5 The purpose of this jury view and
6 of your visit is to help you understand
7 the evidence as it is presented in the
8 courtroom. Thank you very much for that.

9 The defendant is not attending the
10 jury view. He has waived his right to do
11 that, but both the prosecution -- both
12 prosecutors and both defense attorneys
13 are going to accompany you on this. At
14 this time, we are going to be recessing
15 for lunch.

16 At 1:55, I want you to be back in
17 this courtroom so that you can be
18 transported to the bus that will take you
19 to the scene. But before we go, I'm
20 going to repeat part of our recess
21 instruction. That is, do not discuss the
22 case among yourselves or with anyone
23 else. Do not permit anyone to discuss it
24 with you or in your presence. It is your
25 duty not to form or express an opinion on

1 this case until it is finally submitted
2 to you.

3 And the whole instructions I gave
4 you yesterday do apply to this case until
5 we are -- until a verdict is announced in
6 court.

7 At this time, after you do your
8 jury view today, if you come back from
9 lunch in this room about 12:50-55, you
10 will go to the jury view and you will be
11 recessed for the day. So tomorrow is
12 Thursday, the 13th, and you will not have
13 to be back in the Jury Commissioner until
14 12:30. So, again, you get to have a nice
15 late morning, and come back at 12:30
16 and --

17 MR. TIEGER: Judge, can we approach
18 just briefly?

19 THE COURT: Anything else?
20 Apparently, there is one more thing.

21 (Unreported sidebar conference.)

22 THE COURT: And there is one very
23 important function that we must do right
24 now, and that is to stand up to take your
25 oath as jurors. We have selected a jury

1 today, therefore, if you will raise your
2 right hands to be sworn.

3 (The jurors and alternates sworn.)

4 THE COURT: You may swear or
5 affirm. And we are now excused for lunch
6 until 12:55 -- until 1:55.

7 (The jury leaving the courtroom at
8 1:06 p.m.)

9 THE COURT: One more thing,
10 Counsel. They are excused. Thank you.
11 When they come back, I'm going to reissue
12 the oath, because I left out a few things
13 I needed to say. I'll just repeat it.

14 So is there anything else before we
15 actually have that lunch recess from you
16 guys except for the observations you
17 would like to point out?

18 MR. TIEGER: Judge, when you
19 re-administer the oath, are you going to
20 do that?

21 THE COURT: I'm going to
22 re-administer the oath.

23 MR. TIEGER: On the record, do you
24 need us here, or because I know he --

25 THE COURT: You can waive your

1 presence if you would like to. I'm going
2 to re-administer the oath, and I'm going
3 to say: Do you swear or affirm that you
4 will diligently inquire into and
5 carefully deliberate all matters brought
6 before you -- before this Court, in the
7 matter involving the State of Ohio and
8 the defendant, and will you do this to
9 the best of your skill and ability, and
10 without bias and prejudice? That's what
11 I am going to say to them. You may be
12 present if you would like to, or you may
13 waive your presence. It will be on the
14 record. Whatever is stated, it will be
15 on the record.

16 MR. TIEGER: Ms. Shanahan and I are
17 happy to be here, but if the defendant
18 wants to waive, we just wouldn't show and
19 the defense, so I'm good either way.

20 THE COURT: You guys want to waive
21 it?

22 THE DEFENDANT: I'll waive.

23 THE COURT: I'm going to say that
24 oath I just said to you on the record
25 with the court reporter.

1 THE DEFENDANT: I'll waive it.

2 THE COURT: Okay. Thank you. And
3 then are you guys going to write your
4 things -- the things you want them to
5 observe on paper?

6 MR. TIEGER: We are going to do it
7 right now, Judge. We'll maybe meet a few
8 minutes earlier.

9 THE COURT: You can do that at
10 12:55 when you get back.

11 MR. TIEGER: Sure.

12 (Luncheon recess.)

13 THE COURT: Let the jury in. For
14 the record, on the matter of State vs.
15 Ruben Jordan, this includes the
16 information of both of your statements of
17 what you want them to observe?

18 MS. SHANAHAN: Yes, Your Honor.

19 THE COURT: Mr. Whalen approved it.

20 MS. SHANAHAN: He just said as long
21 as they notice the area of Victor Davis's
22 apartment, which is 1804 Republic, that's
23 all he asked to be on there.

24 THE COURT: Okay. And he didn't
25 object to the other part, so that's for

1 the record, and this will go to the
2 bailiff.

3 (The jury entering the courtroom at
4 2:02 p.m.)

5 THE COURT: Hello, jurors. Would
6 you just remain standing? Did you have a
7 nice lunch, by the way? Did you have
8 enough time?

9 JURORS: Yes.

10 THE COURT: I need to also repeat
11 the oath because I left out a couple of
12 magic, very necessary words, so if you'll
13 raise your right hands to be sworn again
14 as jurors.

15 Do you swear or affirm that you
16 will diligently inquire into and
17 carefully deliberate all matters between
18 the State of Ohio and Ruben Jordan, and
19 do you affirm and swear that you will do
20 this to the best of your skill and
21 ability and without prejudice or bias so
22 help you God, or you do this as you shall
23 answer under the pains and penalties of
24 perjury? You may say I do.

25 JURORS: I do.

1 THE COURT: Thank you. You are now
2 going to be taken -- the next stop will
3 be taking -- my bailiff will take you to
4 the bus. You will view the scene and
5 then you'll be released for the day, and
6 I will see you tomorrow at 12:30. Thank
7 you.

8 JURORS: Thank you.

9 THE COURT: And please note, I'm
10 handing the instructions from the counsel
11 as to what they want them to observe.

12 A JUROR: Your Honor, do we meet in
13 the jury room?

14 THE COURT: Meet in -- you can meet
15 here, this jury room. Now that you're
16 chosen, you are assigned to this court
17 from now on.

18 A JUROR: 12:30?

19 THE COURT: Yes. And you can leave
20 some property, we can lock it, et cetera.

21 A JUROR: Thank you.

22 MR. BRENNER: After the jury view,
23 you'll be dismissed. The bus will bring
24 you back here. Is there anything you
25 want to get out of the jury room or out

1 of the Jury Commissioner room you left
2 there?

3 A JUROR: Our coats.

4 MR. BRENNER: Why don't we swing by
5 there and pick that stuff up and I'll
6 meet you in the hallway.

7 THE COURT: Have a good evening.

8 (The jury leaving the courtroom at
9 2:05 p.m.)

10 (Proceedings continued in progress
11 until January 13, 2011.)
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